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BUS REGULATORY REFORM ACT OF 1982

HEARING

BEFORE THE

SUBCOMMITTEE ON SURFACE TRANSPORTATION

OF THE

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

UNITED STATES SENATE

NINETY-EIGHTH CONGRESS

FIRST SESSION

ON

OVERSIGHT OF THE BUS REGULATORY REFORM ACT OF 1982

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BUS REGULATORY REFORM ACT OF 1982

TUESDAY, NOVEMBER 1, 1983

U.S. SENATE,
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
SUBCOMMITTEE ON SURFACE TRANSPORTATION,
Washington, D.C.

The subcommittee met, pursuant to notice, at 9:30 a.m., in room SR-253, Russell Senate Office Building, Hon. John C. Danforth (chairman of the subcommittee) presiding.

Staff members assigned to this hearing: Karen Phillips, professional staff member; and Steve Palmer, minority staff counsel.

OPENING STATEMENT BY SENATOR DANFORTH

Senator DANFORTH. This morning the Surface Transportation Subcommittee is conducting its first oversight hearing on the Bus Regulatory Reform Act of 1982, which was enacted in September of last year and became effective in November. The Bus Act provided significant regulatory reform of the intercity bus industry, most notably in the areas of entry, exit, and pricing practices, both at the Federal and the State level.

While it is still too early to assess the long-term impacts of the Bus Act, there has been considerable activity in the intercity bus industry as carriers take advantage of the reforms contained in the act. Entry into the industry has been proceeding at a brisk pace, and carriers are offering innovative promotional fares. We are also seeing significant activity at the State level as interstate carriers seek to abandon unprofitable routes and to raise interstate fares to the levels charged for comparable interstate service.

The Bus Regulatory Reform Act of 1982 was enacted for the purpose of enabling carriers to provide better services to the public and to improve the financial health of the industry. I look forward to hearing from our witnesses today as to whether the act has been successful to date in achieving these goals.

We are pleased to have as our first witness the Honorable Reese Taylor, Chairman of the Interstate Commerce Commission.

I might say, Mr. Chairman, and not only to you but to all of the witnesses, that the witnesses have been given time limits by the staff. I would very much appreciate the cooperation of the witnesses in keeping within those time limits. Your full statements will be included in the record automatically, so you do not have to take part of your time asking that your statements be included in the record. That will automatically happen.

And also, Senator Long once said at a hearing, you do not have to spend your time telling us how happy you are to be here.

We assume by your smiling faces that you are happy to be here. So you can just get into the substance, unless you want to tell us how happy you are to be here, but it is really not necessary.

Mr. Chairman, thank you.

STATEMENT OF HON. REESE H. TAYLOR, JR., CHAIRMAN, INTERSTATE COMMERCE COMMISSION, ACCOMPANIED BY ED SCHACK, SPECIAL COUNSEL; BERNARD GAILLARD, ASSOCIATE DIRECTOR, OFFICE OF COMPLIANCE AND CONSUMER ASSISTANCE; BILL SOUTHARD, OTA DIRECTOR; AND JAN ROSENAK, LEGISLATIVE COUNSEL

Mr. Taylor. Good morning, Mr. Chairman. We are happy to be here.

Let me begin by introducing the people at the table with me this morning. On my far left is the Commission's special counsel, Ed Schack. On his right is Associate Director Gaillard of the Office of Compliance and Consumer Assistance. On my far right is OTA Director Bill Southard. And on my immediate right is the Commission's legislative counsel, Jan Rosenak.

We appreciate the opportunity to appear before you today to testify with regard to the Commission's implementation of the Bus Regulatory Reform Act of 1982 and its impact on the intercity bus industry and others affected by the legislation.

As you know, the Commission strongly supported passage of the Bus Regulatory Reform Act, and worked with the congressional staff as its provisions were drafted. I myself was actively involved in the legislation. Many of the specific reforms we advocated were included in the bus legislation which was enacted.

After the act was signed by the President on September 20, 1982, the Commission moved expeditiously to propose implementing rules so that the new eased regulatory scheme could be in place before the act's provisions became effective.

As stated in our testimony urging passage of the bus legislation, we believe that the act offers a balanced approach by easing entry into new routes, establishing a more certain procedure for exit from unprofitable service, and providing bus companies greater flexibility to price their services.

Under the Bus Act, competition rather than Government regulation is to now be the primary determinant of fare and service levels in the industry. Experience with other industries, such as trucking, that have moved from a regulated to a more competitive economic environment convinces us that it may well be another year or two before the full impact of the bus regulatory reform is realized.

Nonetheless, in the year since passage, many firms have come forward to take advantage of the new operational freedoms offered them by the act.

Let me begin the discussion of the effects of the implementation of the Bus Act by focusing on three key areas, eased entry, rate flexibility in conjunction with limitations on antitrust immunity, and a new exit policy.

First, as to entry, we are pleased to report that the act has had a significant effect on entry. Major carriers have moved to rationalize their route structures. Many smaller carriers have also utilized this opportunity to enter into or expand existing regular route operations.

There has been a dramatic increase in charter services, which require very low startup or capital costs, through entry of new firms and territorial expansion by existing firms. From the act's passage until mid-October 1983, more than 2,000 applications had been filed by new and existing firms for regular route and charter authority. Of the total, 1,097 have been filed by new applicants, and 931 by existing carriers. Thus, it is clear that the entry provisions of the Bus Act are having their intended effect.

One issue that has arisen in the entry area concerns applications by Government subsidized carriers to operate charter and special services. A petition has been filed by the ABA requesting consolidation of the pending subsidized carriers' applications, on the ground that it is inconsistent with the public interest to grant charter and special operations authority to any applicant which can use its subsidized position to mount potentially unfair competition against carriers operating in private enterprise. Replies have been filed, and the matter is presently pending.

As to rates, the industry has also taken considerable advantage of the rate freedoms contained in the Bus Act. Although fare increases have occurred on certain routes as the industry struggles to overcome its generally weakened financial condition resulting from the recent recession, carriers have also responded to the more competitive market created by the Bus Act by filing a number of independent rate actions and initiating some innovative discount programs.

With regard to the rate bureau provisions of the act, the Commission established revised standards and procedures for the bus industry rate bureau in *Ex parte* No. 297 (Sub-No. 6). The National Bus Traffic Association has filed an amended agreement in conformity with the Commission's rules. Comments were permitted, and NBTA's reply to comments is due November 2, 1983. Subsequently, the Commission will review the amended agreement.

Last June, the Commission testified before the Motor Carrier Ratemaking Study Commission, reiterating the view that there is even less reason for continuation of antitrust immunity for passenger carriers than for motor carriers of property. At that time, the Commission indicated that it saw no need for continued antitrust immunity for the collective determination of general rate changes, innovative fare changes, or broad changes in the tariff structure of motor common carriers of passengers. This continues to be our view.

Prior to passage of the Bus Act, many States held intrastate rates at an artificially low level, causing subsidization of regular route intrastate passengers by interstate passengers. Section 17 of the Bus Act gave the Commission authority to review intrastate rates of interstate motor common carriers of passengers. The Commission has received 22 petitions for such review; 16 have been granted, generally on the basis that the carriers existing intrastate fares are lower, often significantly lower, than its interstate fares for comparable service within the State without any justification for the disparity. Two of the petitions have been dismissed on grounds that the Commission lacked jurisdiction to consider them. Four remain pending as of this date.

As to exit, one of the major concerns with the regulatory reform legislation involving any mode of transportation has been the effect on service to small communities. Since enactment of the Bus Act, Greyhound and Trailways have proposed to drop or have dropped numerous points from their route system. However, the discontinuances that have occurred are, for the most part, not an unexpected nor an unintended result of the Bus Act, since one of the aims of the act is to provide carriers both greater entry and exit freedoms so that they can best reorganize and rationalize their route structures.

In the past, bus carriers have been prevented by State regulatory authorities from dropping many routes which were severely underutilized and therefore unprofitable. In order to address this problem, the Bus Act provided statutory authority for the Commission to pre-empt State regulation of exit from regular route passenger service in certain circumstances.

The Commission has received 21 petitions for intrastate exit review. One petition has been dismissed for lack of jurisdiction. One has been denied based on a record that would not support a finding that continuation of the service would institute an unreasonable burden on interstate commerce, two were unopposed and have been granted, and nine have been granted because those objecting to each proposal failed to make the requisite statutory showing. The remaining eight petitions are still pending.

Because of the importance of this issue, the Commission's written testimony includes a summary of the action taken by the Commission in several representative cases.

To aid the Commission in assessing the impact of the Bus Act on bus passengers, we have had our Office of Compliance and Consumer Assistance gather information on the extent of bus passenger complaints to State regulatory commissions and to the ICC. The overall results are encouraging.

The intercity bus industry carries passengers on almost 400 million trips a year. Yet in the year prior to the Bus Act, we received only 296 complaints about bus service. In the 8 months after enactment, the number of bus passenger complaints to this Commission decreased to 128, which I must add would be 192 on an annualized basis.

Complaints to the States from bus passengers since enactment of the bus legislation have centered on service reductions. Counting each signature on a petition to a State commission as a single complaint, the number of complaints to States concerning actual or proposed service reductions rose from 407 in the 12 months preceding the act to 5,052 in the 8 months after enactment.

In discussing the effects of the Bus Regulatory Reform Act, another factor that needs to be examined is the financial condition of the industry. The bus industry did not fare well during the recent recession, and the recovery has not yet improved carrier profitability. However, the Commission is firmly convinced that as carriers take advantage of the new freedoms contained in the Bus Act, and as the economy continues to improve, bus carriers' financial results will improve as well.

In addition to instituting the rulemakings necessary to implement the Bus Act, the Commission conducted several projects in order to assist the industry, State and local governments, and the public to adjust to the changes brought about by the act. Shortly after enactment of the bus legislation, the Small Business Assistance Office of the Commission published a booklet describing the highlights of the Bus Act and a guide to applying for permanent operating authority as a motor carrier of passengers.

The Commission's Office of Special Counsel also prepared a publication to serve as a guide to participation in Commission cases, that has become known as the orange book. It is quite famous now in the industry, and we are quite proud of our Office of Special Counsel for having put that together as a full and complete explanation on what the Bus Act is all about and how the State commissions and local communities can make an appropriate case before the Commission on carrier appeals.

In May and June 1983, the Commission conducted 11 regional seminars which reviewed the provisions of the Bus Act, entry procedures, licensing requirements, and intrastate rate and exit issues. We are very proud, too, of the SBAO office because we think they are going to play an instrumental role in encouraging substitute services behind some of the discontinuances.

The Commission's Office of Transportation Analysis is preparing a study that will focus on the market structure, conduct, and performance of the intercity bus industry and how each of these matters is affected by the Bus Act. This staff study, which should be completed by mid-November of this year, will build upon and continue an earlier study, known as "The Intercity Bus Industry: A Preliminary Study," which was issued in 1978.

Also, under section 26 of the bus legislation, the Commission is conducting a study with the U.S. Department of Transportation on the intercity bus terminals and stations. Questionnaires have been sent to all ICC passenger carriers and a sample of terminal and station managers. The data received is being analyzed to determine the pattern of ownership, location, and adequacy of the present terminal network.

In conclusion, I would like to emphasize that the Commission has moved forward to implement the Bus Regulatory Reform Act, keeping in mind the congressional findings which emphasize that the objectives of the national transportation policy can best be met through greater competition and reduced regulation.

Clearly, a more competitive environment has already developed in the bus industry. While, as I mentioned earlier, it may be another year or two before the effects of the passage of the Bus Act are fully realized, the Commission believes that the industry is already responding positively to the operational freedoms afforded by the act, and that the end result will be improved price and service options for bus passengers.

This concludes my statement, Mr. Chairman, and now if you have some questions I will be happy to try and respond.

Senator DANFORTH. Thank you very much, Mr. Chairman.

You know, I would think that at a time of recession, bus transportation would suffer less than the competing modes for the reason that people have to travel, and bus transportation has been thought to be the most economical way to travel between cities. Why would the bus companies be experiencing an economic decline, in your view?

Mr. TAYLOR. Well, I guess the only reason I could give for that is, like the rest of the economy, I think probably they suffered, too. Probably people traveled less as the economy is down. When you are unemployed, even a bus ticket can be a rather expensive proposition and not as important as some bread at the grocery store.

Bill Moss, from our bureau of accounts, is here, and he is the one in charge of our financial data. I think he is sitting in the audience. I do not know whether he could add anything to this. If he can——

Mr. Moss. No, Mr. Chairman. Numbers, but the rationale behind it is basically the same.

Mr. TAYLOR. I think we can only attribute it to the general state of the economy. The Bureau of Accounts has the numbers, and we could submit them for the record if you would like, to show that 1982 was not a good year for the bus industry. But, hopefully, they will begin to recover. I think you have to remember, too, that part of the problems that the bus industry has faced were those to be addressed by the act. Many of the bus companies have been providing service that just has not paid for itself. It has been an enormous cost.

Senator DANFORTH. You think the Bus Act has mitigated the downturn? Do you think it would have been worse?

Mr. TAYLOR. I think it has probably helped contribute. It is going to take a while.

Senator DANFORTH. Helped contribute to what? To the problem?

Mr. TAYLOR. I think it has helped the two main operators, particularly, to rationalize their systems, because there have been a lot of areas where they were involved in local service that simply did not pay for itself that they were mandated to continue. The effort has been made to find some substitute service behind that so that essential service is not totally discarded. But I think the act has helped, particularly the major carriers, to rationalize their systems and become more profitable.

Now, of course, that on top of the recession, I think led to bad figures.

Senator DANFORTH. You think that things are bad, but they could have been worse?

Mr. TAYLOR. That is the way I would put it.

Senator DANFORTH. You noted the fact that a lot of the communities have seen their service discontinued. Other than noting that, do you view that with alarm, or is that a problem that we should be considering?

Mr. TAYLOR. Well, I think that we are trying very hard at the Commission to consider it, because we need to find some substitute service in those areas where bus service really is essential. The people who ride buses are, generally speaking, the old, the sick, and the poor, the young, who do not have other alternative means of transportation available to them. Unless we can find substitute service to fill in, I think we will have some problems with the act.

That is why Mr. Schack and the Office of Special Counsel have been working as hard as they can to make sure the local communities have an opportunity to make a proper record on carrier appeals to the Commission. And the Small Business Assistance Office has made numerous contacts, holding seminars to encourage people now that it is a much easier proposition to get into the bus business, where they find that there is a possibility to provide service.

Senator DANFORTH. But so far what we have seen have been exits without the entry, right?

Mr. TAYLOR. No, there has been some entry, too. There has been more exit than entry, because I think Greyhound particularly has made a serious effort up front. As they told us, "We are not just showing you the tip of the iceberg; we are going to try and rationalize our system as quickly as possible." So there have been a number of those. But there has been some entry, too. I have some numbers on that if you would like them. Would that be helpful?

Senator DANFORTH. Well, I do not know what the numbers are or how long it would take. You could maybe submit them for the record.

Mr. TAYLOR. All right. Why don't we do that?

[The information referred to follows:]

Trailways has added or plans to add service to 45 additional points. Service to 55 points has been eliminated, and, of these, service has been restored to 9 points.

Greyhound has added or plans to add service to 138 points; service to 1,114 points has been eliminated. The number of points to which service has been restored has not been reported. Greyhound maintains that the number of points to which service has been eliminated is not synonymous with the number of communities which have lost service because many of the points are highway flagstops. Also, in some cases, alternative service is available.

Senator DANFORTH. I think I know the general situation, that Greyhound is pulling out of something like 1,300 communities which it has been serving, but I was just wondering where we go from there. Do we just say, well, we will send some people around to communities and try to encourage other people to enter?

Mr. TAYLOR. No. I think there is going to be substitute service, and all kinds of things are going to develop in that regard. I think there may be some smaller equipment offerings. We had a problem out in Nevada one time trying to get service back and forth to a small town out on the eastern border, and we wound up providing it with a van.

There are small equipment manufacturers now who are making very, very satisfactory buses that hold 15 passengers or less. That is one of the reasons I am hoping your safety legislation will not be limited to bus equipment of more than 15 passengers. I was recently out at the American Bus Association meeting in San Diego and spoke to one of those manufacturers.

So there will be some innovative changes, and I think that if it is possible to make some money in a small bus operation, and if there are really a number of people who want to do it, there will be some substitute service filled in behind. It no longer takes a Philadelphia lawyer and an enormous legal fee to get authority. So I think we will see that happen. It is not going to happen overnight. It will take some time. There will be some rough edges as we move through the transition, but I think it will happen eventually.

Senator **Danforth**. Tell us about safety. Do you think we have adequate standards and procedures?

Mr. **Taylor**. Well, as you know, Mr. Chairman, I feel very, very strongly about safety. We have talked about that in hearings before, and I think that safety fitness is something that should apply not only before a carrier is authorized to go into business but on a continuing basis thereafter.

I think you have heard me go through my bit about how excited everyone becomes with people flying around in the air and the safety up there, but we take those very same people and put them in a bus down here on the ground, stick them out on the highway where actually they are statistically in much worse shape than they are up in the air in terms of their possibility of having an accident, and somehow or other we are not as concerned about them when they are down on the ground.

Of course, I must say that the problem really is DOT's, and not ours at the ICC. But despite that fact, we have been concerned enough to conduct some road checks. I recall one specifically that we did out at Yermo not so long ago. We found one bus with absolutely no brakes. It was coming back from Las Vegas to Los Angeles. He has to go down the San Bernardino grade. We found another one that had only one lug nut in one of the wheels. Mr. Gaillard, sitting next to me, has been involved in many other studies. We recently had a two-bus accident coming down the grade where the driver was at fault and may be seriously prosecuted. So there is still a considerable safety problem, in my view, and I think one that has to be addressed.

Therefore, I would certainly commend your efforts to get meaningful safety legislation passed. I hope that comes. I do not believe we should have to wait until a bunch of bus passengers are incinerated at some country crossroads. I notice your bill calls for annual inspections. I would support that wholeheartedly.

Senator **Danforth**. Just one more question on the problem with Canada, if there is a problem with Canada. I guess the President says that with respect to trucks there is no problem with Canada, but what is the situation as you see it?

Mr. **Taylor**. As you know, we had the moratorium that was incorporated into the Bus Act. It really was designed to address trucking problems but it applies to buses too. The moratorium is still in effect for Mexico. So that is in place. As far as Canada is concerned, it was lifted on November 29th. There have been some allegations that a carrier is having some problems getting authority to operate in Quebec, and there is no question about the fact that the Canadian provincial authorities, which handle the job that we do here on the Federal level in the United States, are much stricter than the ICC is.

I have just been to Canada. As a matter of fact, last week I spent 2 days in Montreal meeting with the Transport Commission. We had hoped to do that some time ago, and because of the moratorium, we were unable to do it. I heard nothing from them. I made some specific inquiries about Quebec's refusal to grant a specific carrier some authority. However, on a kind of related basis, we had this problem that has come up with respect to subsidized commuter operations seeking particularly charter and special service authority. There are some seven of those cases, actually six now, because New Jersey Transit has withdrawn. Two of those carriers seeking authority here are Canadian carriers, one of them the Canadian National, and presumably they are subsidized carriers, and the issue has arisen as to whether or not, under the more strict public interest standard requirement that we have under the act for subsidized carriers, it is within the public interest to allow subsidized carriers to compete with a carrier in the private sector.

We have held all those cases at the moment. The ABA has asked for oral argument. We are going to try to dispose of them all at once. We have had some strong representation from Senator Packwood and also Chairman Howard of the House Public Works Committee that the public interest presumably was not to condone subsidized operations competing in the private sector. All of that, of course, will be taken into account in the Commission's deliberations, but, so far, I am not specifically aware of any particular bus operator who has applied for authority in Canada, and specifically in Quebec, who has had that authority turned down.

While I was up there, we heard about a Roadway Express application that apparently was denied. That is now being handled through the consultative mechanism that was set up when the moratorium was lifted, but I do not think—at least I am keeping my fingers crossed—that we have serious reciprocity problems with Canada at the moment, and I am hoping we will maintain the dialog on a continuing basis and nip future problems in the bud before they really get out of hand.

Senator Danforth. Obviously, as you address the subsidy question, you will do so not only from the standpoint of subsidies within the United States, but subsidies that might be granted by Canada.

Mr. Taylor. I would think so. That is actually the issue in at least the one Canadian case I am aware of. There is another Canadian carrier, too. That is really what is in front of us in those cases at the moment.

Senator Danforth. Thank you. Senator Pressler?

OPENING STATEMENT BY SENATOR PRESSLER

Senator Pressler. Thank you very much.

I have some questions, but first I would like to make a brief opening statement, if I may. This committee was debating the bus deregulation bill last year. I was the only member of this committee to vote against it. I vigorously opposed the plan because I thought it would reduce transportation services in America for the elderly and those who are less fortunate.

In 1 short year, we have already witnessed a substantial decline in the service to this area, and it looks like the worst is yet to come. One year is not long enough to give us a clear picture of the long-term effects of bus deregulation. At least I hope it is not enough time, because the preliminary results paint a very bleak picture.

Of the 14,000 communities whose transportation needs are served exclusively by intercity bus routes, about 10 percent had service abandonments or are presently facing proposed discontinuation of services. Ten percent. Keep in mind that they have no alternative services. Where are these communities supposed to turn for alternative transportation?

As a rural Senator from South Dakota who has witnessed dozens of railroad abandonment cases in my State, I can assure everyone here today that there is nowhere else to turn. Rural America is continually and systematically being left out in the cold in the push for transportation deregulation or what is called deregulation. I call it reregulation. I think it is high time we all stopped to take a closer look at exactly what is going on.

I have seen the figures on market entry and exit since bus deregulation. On their face, they show that service has increased somewhat nationwide with the entries slightly outweighing the exits, and I have heard deregulation proponents point to these figures with great pride, saying that bus deregulation is working and working quite well. A closer look at these figures tells another story. It is not a happy one.

Where service has increased, it has been 90 percent in the charter services, which are tailored to the needs of a special group, generally on a one-time basis, and from what I have been able to gather, it has been in the more densely populated lucrative urban markets. Where service has decreased, it has been predominantly in the regular route traffic, the essential day to day transportation needs, and as would be quite predictable, in sparsely populated rural areas.

I do not see an end to this general trend in the transportation field. Rural areas are becoming more and more isolated from the rest of the country. This is not in bus service alone but in all modes of transportation. It is becoming harder and harder to travel to or from rural or smaller towns and smaller city States. This affects not only our immediate personal mobility but also our business, the flow of commerce, and our ability to have reasonable access to the rest of the Nation.

Personally, I would like to see some stronger guarantees of service to rural communities and more attention given to the fitness requirements of these carriers providing the service, but I know that neither this committee nor the Congress is yet prepared to mandate this type of essential bus service guarantees. Unfortunately, I am afraid things will have to get much worse before we are willing to make them better. But I do think that there is a possibility to act on legislation which would give these communities that are losing service a better opportunity to seek out alternative bus operators.

I have joined with some of my Senate colleagues in sponsoring legislation, and we have referred to this, that would give the communities more advance notice of proposed abandonments and make cost and revenue statements available so potential alternative bus operators have a better chance to fill the service void. This legislation would also get the Federal, State, and local authorities to work more closely to solve these problems and preserve bus service to these communities threatened by a total loss of public transportation. This will be a big help in softening the blow to some of the affected communities. I will work hard on this committee to gain its passage.

We are presently going through an era in the transportation field that will have much greater and more far-reaching implications than I think many seem willing to believe or admit. In the past 5 years, we have deregulated just about every mode of public transportation available, and I fear we may have done more harm than good. But the deed is done for now. I only hope that we do not allow the patients to become too sick before calling the doctor and that doctor has had enough time and wisdom to prescribe the proper treatment.

With that I will close my opening remarks, but let me say that I feel strongly that what has happened with this word "deregulation" in transportation in the long run will be a disaster for the economy of our country, because we have not seen the full impacts of it yet. Our national transportation system was built under the principal that it would be a national interconnecting one, and that was true in many areas. Bus transportation provides the only type of transportation available to a lot of people, and as we visit some of our bus depots and stations, we can see first-hand that things are in pretty bad shape, except in some areas where there is charter or other types of special group services.

I feel that as the statistics become more available, and we are only a year into this, but as the indications are, we will find that as in many other areas, that system of nationwide transportation is breaking down. With that being said, I do have some questions.

I am glad to see that Chairman Taylor is here, who has been a good friend.

Chairman Taylor, you have covered this to some extent, but I mentioned in my opening statement the differing impact of bus deregulation on rural communities and more densely populated urban areas. First of all, would you agree that this dichotomy exists? If so, are there any studies you know of or any other attempts to take a special closer look at the effect of bus deregulation as it pertains to rural States?

Mr. TAYLOR. Well, I suppose that there is no question that rural areas are the ones that we have to be concerned about, and certainly some discontinuances have been proposed in those communities. We really do not have a lot of hard data yet, but I do have some information, and perhaps I could give that to you at this stage of the game.

We are looking at the question. We think it is terribly important. We are concerned about service to small communities. We feel there we do not have any problems. Of course, we have not been through an economic upturn yet. That is about to take place. So perhaps any final judgment should be withheld until that happens.

In any event, as mentioned in my full statement, questionnaires have been sent to all ICC regulated carriers requesting the names of all points added to and deleted from their service schedules since the effective date of the act. The information is being tabulated now and should be available shortly.

Looking at some of the data presently available indicates the following. Insofar as Trailways is concerned, we have found that they have added or planned to add service to some 45 additional points.

However, service to 55 points has been eliminated, and of these, service has been restored to 9 points. Greyhound is a little bit different story. They have added or plan to add service to some 138 points; however, service to 1,114 points has been eliminated. The number of points to which service has been restored has not been reported as yet.

Now, in fairness to Greyhound, I should state that they maintain that the number of points to which service has been eliminated is not synonymous with the number of communities which have lost service completely, because many of the points are simply highway flag stops. Also, in many cases, they tell us that alternative service is available.

Other studies have attempted to identify communities which have lost service. There is an AASHTO—that stands for American Association of State Highway and Transportation Officials—study. NARUC has also been having a look. So far the indication there is that 480 communities in 24 States have lost service in accordance with their figures and another 249 communities in 7 States, according to their survey, have discontinuances pending.

Now, based upon the AASHTO study, I can give you some specific figures for South Dakota which they have provided us. The first sheet for all of the States reflects the number of communities that have lost all intercity bus service since November 19, 1982. It is broken down, I must say, on the size of the communities—under 5,000, 5,000 to 25,000, 25,000 to 50,000, and over 50,000. For South Dakota communities under 5,000 that have lost all intercity bus service, we show a total of 4, and zeroes for the other categories, and a total of 4 completely.

The next set of figures relates to the number of communities where intercity bus service has been reduced by 50 percent or more since November 19, 1982. For South Dakota we find no communities of any size that have experienced that proposition.

Senator PRESSLER. How does that compare to other States? Let us go Iowa.

Mr. TAYLOR. I can give you the Missouri figures.

Senator PRESSLER. Or Iowa.

Mr. TAYLOR. Under 5,000, 18; 5,000 to 25,000, 6; none in the 25,000 to 50,000 area; and above 50,000, 1, for a total of 25.

Senator PRESSLER. But now that is——

Mr. TAYLOR. Would you like to pick another State?

Senator PRESSLER. Yes, Iowa.

Mr. TAYLOR. Iowa. This is service reduced by 50 percent. Under 5,000, 8; 5,000 to 25,000, 1, for a total of 9. On all service, a large number, 59 under 5,000.

Senator PRESSLER. Fifty-nine under 5,000.

Mr. TAYLOR. Fifty-nine. Three communities in the 5,000 to 25,000 category, for a total of 62.

Senator PRESSLER. I would say that in some States, including South Dakota, there are cuts contemplated that have not gone into effect yet. Other States, such as the one you just cited, would be an example of where the cuts have gone into effect. But even in the States where the reductions are still contemplated, the figures are staggeringly devastating, in my view.

Mr. TAYLOR. Iowa is one of the highest.

Senator PRESSLER. Iowa is 59 out of how many? Let us just take a look at that Iowa figure.

Mr. TAYLOR. The only one that is higher is Illinois, with 62.

Senator PRESSLER. Illinois and Iowa have 59 and 62 out of how many in that category?

Mr. TAYLOR. There are a total of 405 under 5,000.

Senator PRESSLER. 405 in Iowa.

Mr. TAYLOR. No, a total of 405 for all States which have lost all intercity bus service to communities under 5,000. Of that 405, 59 for Iowa, 62 for Illinois.

Senator PRESSLER. Fifty-nine that have had reduced service in Iowa?

Mr. TAYLOR. No. This is communities which have lost all service.

Senator PRESSLER. That is how many there are total, 59?

Mr. TAYLOR. There are two numbers for you. Let me see if I can make it clear. One set of numbers pertains to the number of communities which have lost all intercity bus service since the act. The figure totally for communities under 5,000 is 405. Of that 405, the figure for Illinois is 62.

Senator PRESSLER. No, I want Iowa. Walk me through Iowa.

Mr. TAYLOR. The figure for Iowa is 59.

Senator PRESSLER. In Iowa, how many cities are we talking about in this category?

Mr. TAYLOR. I do not know that we can give you the total number of cities. You must remember this is not our study. This is an AASHTO study.

Senator PRESSLER. That is 59 out of how many?

Mr. TAYLOR. It is 59.

Senator PRESSLER. What does that mean?

Mr. TAYLOR. Communities, whatever that represents—cities, towns.

Senator PRESSLER. What has happened in the 59 communities? Have they lost service or reduced service?

Mr. TAYLOR. These are communities that have lost all intercity bus service since the Bus Act.

Senator PRESSLER. In 1 year's time, 59 communities in Iowa?

Mr. TAYLOR. Fifty-nine communities with a population under 5,000.

Senator PRESSLER. I would bet you that there are not more than 200 such communities in Iowa. I would represent that this represents 25 percent of all the communities. I am told Iowa is the State where this thing has moved forward, and I will bet you that that number will be 100 by the end of this year, and I will bet that that will mean that 50 percent of all towns in Iowa will have lost bus service by the end of the second year.

Mr. TAYLOR. There is another side of the coin. Let us be sure you have the figures straight for the number of communities where intercity bus service has been reduced by 50 percent as opposed to having been lost completely. The number for Iowa for communities under 5,000 is 8. Now, we also have some figures for the number of communities which have gained new regular route service since November 19, 1982. I am talking about new regular route service, now, not just charter and special operations.

We do not show any for Iowa. We do not show any for South Dakota. But for the number of communities which have received replacement regular, route service, as opposed to new service, since the Bus Act, the number for Iowa is 27 in communities under 5,000. It is 3 for communities 5,000 to 25,000; 1 for communities 25,000 to 50,000; and 2 for communities over 50,000; for a total of 33. And for South Dakota, we do not show any replacement service for any of the communities except over 50,000.

And there was one there. I believe that is Jack Rabbit in Sioux Falls, because I think you only have two towns that are over 50,000 in South Dakota.

Senator **Pressler**. I am not in any big argument with you here. I am told that in some States this is being implemented faster than in others, and I do not want to belabor the point. But I would daresay that what you have read—and I am not in an argument with you—the way I figure it, in Iowa 25 percent of the small towns have lost bus service totally and probably 50 percent will lose it by the end of this coming year. And that is a devastating comment for the people in small town America, in Iowa, who depend on bus service to get someplace.

I think that those figures are devastating, unless I am hearing them wrong.

Mr. **Taylor**. Well, the point is, I think we really have to be fair about it. While Iowa is the one that has lost the most in the all intercity service category, 59, if you look at the sheet where replacement service has gone, Iowa has far more than everyone else for communities of under 5,000. There really is not all that much replacement service.

Alabama has 6, Idaho 2, Kansas 4, New York 2, Oregon 4, and Iowa 27. So there has been an awful lot of replacement service in Iowa, and I think that speaks very well for what we are trying to accomplish under the act.

Senator **Pressler**. Do you know what kind of replacement service that is? It is less than half being replaced. But what kind of replacement service is that?

Mr. **Taylor**. That I cannot address, but we will find that out for you if you like.

Senator **Pressler**. Does that mean a 1 day a week something coming through?

Mr. **Taylor**. Let me ask Bill Southard, because in fairness to him——

Senator **Pressler**. Whose study is this, by the way?

Mr. **Taylor**. This is an AASHTO study. That is, the American Association of State Highway and Transportation Officials.

Senator **Pressler**. I am told that many of these abandonments are proposed, that what we are seeing here is just the beginning of a trend that over 3 or 4 years will be a landslide, a rockslide, so to speak.

Mr. **Taylor**. They are not all processed yet, but I think we will begin to see some substitute service as well.

Senator **Pressler**. We do not know what kind of substitute service this is. Describe some of the substitute services.

Mr. **Taylor**. It may be a van, a 15-passenger vehicle. That is what we finally wound up with in providing service across the

State of Nevada, but it is satisfactory and it works and everybody is satisfied with it.

Senator **Pressler**. Does this study indicate how often and how regularly the substitute vans show up and what their schedules are compared to——

Mr. **Taylor**. I will have to call on Bill Southard, because he has looked at that study far more thoroughly than I have. We just have the overall results.

Can you provide us any information on that, Bill, or can you get some for the record?

Mr. **Southard**. In the study we are doing in connection with the bus terminal study that we are doing jointly with the Department of Transportation, we added a series of questions to get at the issue of service discontinuance and additions. I was looking at the questionnaire we sent out. I will leave a copy here.

We did not ask for a description of the replacement service. We just asked, at what point are you proposing to add service or have you added service? I am looking at what I am told is the response of your State. Well, it is——

Senator **Pressler**. Let us talk about Iowa.

Mr. **Southard**. I do not have a copy of the Iowa response with me.

Senator **Pressler**. I am told that in the State of Iowa, a lot have gone forward. I am told that some of the so-called substitute service is like 1 day a week service, or in some cases 1 day every 2 weeks, and that is very irregular. So if we are talking about substitute service, let us know what we are talking about.

I wonder if we cannot really get some of these figures. Why is it that nobody has any good figures on what is happening in rural America except a study that is vague, and nobody knows who did it and so forth?

Mr. **Southard**. Well, Senator, the Bus Act required the study commission to do, I think the language is, a full investigation and study of the impact of the Bus Act on the elderly, including the elderly living in small communities and rural areas. Now, I assume that the study commission is making that thorough investigation.

Senator **Pressler**. Yes. I think I have an amendment requiring that such study be done, and we hope it is done on a basis that will reflect, if there is substitute service, that it has to be something the elderly could use on a reasonable basis and not just something that comes through every 2 weeks and a van that may or may not show up.

Mr. **Southard**. We have not—in the studies in my office, we have not specifically addressed that issue, on the assumption that the Ratemaking Study Commission would, and as far as I know they are. But you will really have to ask them.

Mr. **Taylor**. We will endeavor to find out what we can from the details of the AASHTO study, and I think some people will be here later to enlighten you, too.

I had neglected to mention that—and I know you did have something to do with it—section 10(e)(2)(B) of the Bus Act does mandate the ratemaking study commission to look into the matter of bus service to small communities, and the emphasis is to be placed on the impact on the elderly. And that report is presumably going forward. The statute makes it due on January 1, 1984. It is not very far off, and we should have some pretty good solid information on that very soon.

Senator **Pressler**. I might say that the reason that we designed that section of the law was because the elderly sometimes cannot get drivers licenses. They like to travel by bus. They prefer not to drive. In some cases they cannot afford cars, but in cases where they can, bus service in many of these areas has a unique characteristic to the elderly. And I am very much afraid that we are losing that, at least in these preliminary statistics that have been brought forth.

Now, remember all this about bus deregulation. A lot of this is proposed abandonments. A lot is just getting started. In some cases, in Iowa and Illinois, it is ahead of many other States. But there we are seeing total loss of service of I believe from one-fourth to one-half of the communities under 5,000, which is really devastating if this continues, because we are talking about maybe three-fourths of the service over a 3- to 5-year period.

And it is really not being replaced with service. The ones that I have looked into, they have been very irregular, very rare schedules that, from my point of view, are inadequate.

Mr. **Taylor**. Let me say, Senator, if we are going to make the Bus Act work we will have to provide substitute service in those areas where essential service really is important. I can assure you that the Commission is going to do everything in its power to see that that happens. We would be delighted to work with your office or any of the other senatorial offices to see that that happens.

Fortunately, we have an Office of Special Counsel who has in my opinion done a beautiful job in trying to develop for the State commissions an appropriate record on carrier appeals. We have a Small Business Assistance Office. Dan King is here in the audience. He has taught a number of seminars.

Because that is the key to making it work, finding adequate substitute service, something like the short line service in the railroad business, where we have a lot of abandonments. There it is important that some of the shippers have continuing service. Short lines have provided that feeder line service, and we will have to continue to do that as we rationalize the rail system. The same thing applies in the bus area.

We will make every possible, conceivable effort we can to see that where service is essential substitute arrangements can be made, but it will take a while. It is not going to happen overnight. As I said before, there will be rough edges that will require sandpapering as we move through the transition.

Senator **Pressler**. Let me just make one final point.

Senator **Danforth**. Certainly.

Senator **Pressler**. Let me just make one final point. I thank you very much. This is not your fault. This is Congress fault. We passed the bill up here. I fought it in this committee and on the floor.

But the next step of accurately reporting what is going on and reacting to that does fall in part in your area and in our area, and I hope we get much better statistics. I think what has changed here has demonstrated the need for more accurate information on what is going on. Not only do we have to know how many communities are losing service, but what kind of substitute service, how often does it come, and so forth.

Mr. **Taylor**. I agree.

Senator **Pressler**. From what I have seen from my interpretation of the study, what has happened in towns of under 5,000 is devastating.

Senator **Danforth**. Mr. Chairman, looking at the situation from the standpoint not of vehicles or of companies, but of people, is there any analysis that is under way at any level by anybody as to what happens to the individuals who are served by a bus or Amtrak or any mode of transportation and then there is a discontinuance? That is to say, is there any public survey, polling of any kind, that analyzes what happens?

Let us take a community and it has bus transportation, and that is discontinued. It is one thing to say, well, there is going to be some other mode of transportation available. What happens to the individuals? Is there any way that we can find that out?

Mr. **Taylor**. The only thing we have done—I am not aware of any study of that issue that has gone forward. But in the case-by-case analyses that have come to us from the State commissions, very often the bus company that is seeking the discontinuance will point out that just a few miles away there is another bus that is available.

Senator **Danforth**. My specific question is, supposing there is a community of 5,000 people and in a given year there are 500 trips out of that community by bus. The bus is discontinued. What happens to those individuals? Do they drive to the next community and catch a bus? Do they get on the train? Do they rent a car? Do they stay home?

Is there any way to know, or is that just all conjecture?

Mr. **Taylor**. Well, I do not have any specific information about a community.

Senator **Danforth**. I know. What I am asking is, is there some entity at the ICC, DOT, some way we could get some human factor in this?

Mr. **Taylor**. What we would endeavor to do at the ICC is, through our field offices, because those are our eyes and ears out in the field, is to find out about those situations. And immediately if that kind of a situation developed in a particular rural area, I think we would enlist the support of Dan King and his Small Business Assistance Office to go out and see if it was really an essential proposition to have bus service in that community and if somehow or other we could put something together to do it.

Senator **Danforth**. Let me say for the purpose of the question, I am not talking so much about specific problem solving on an ad hoc basis for this particular community. But we have gone through a process of deregulation now. It has affected the airplane service, it has affected bus service, it has affected rail service to a variety of communities.

What I am curious about is what happens to the people. I mean, we could have all kinds of theories that somebody will go in and fill the vacuum and focus on the mode of transportation. But I am wondering if there has ever been any kind of analysis on the basis of going into communities and saying, all right, what has been the travel pattern, what is going to be the travel pattern, what has been the effect on people's lives of discontinued transportation?

I wonder if there is any way of doing that, not on an ad hoc problem-solving basis but more on the basis of national trends, national patterns.

Mr. TAYLOR. Well, with limited service, I think the Small Business Assistance Office really is not equipped to do that. But for example, Iowa, where there is one that has apparently brought a lot of furor and caused a lot of tension, that is a State that we go and look at. We have had some problems in Oregon.

We know where the problem States are. I have asked our Small Business Assistance Office already to have a look at those areas and see what they can do to generate additional service. I certainly think DOT probably has the wherewithal to do it.

There is a bill that has been proposed—it has not been discussed yet, but I suppose will come up later on—S. 1916, which is really, I think, more than anything else trying to give the local communities and the State commissions a little additional time up front to really look at what the effect of some of these discontinuances will be, because the Bus Act operates under a very, very, very short time fuse. The prior notice provisions of the bill should aid in obtaining replacement service. While it may be too soon to tamper with the Bus Act at this point in time, I understand efforts are underway to attempt to resolve the matter on a voluntary basis.

Senator DANFORTH. Personally, what I am saying is, from time to time there are studies of one kind or another about what happens when a factory leaves a community, what happens when an Army base leaves a community. And I am not sure that they are particularly scientific studies, but documentaries on television, books that are written, and so forth.

And I wonder if that has ever been done with respect to transportation or if it could be done. What happens when Amtrak stops serving the community, or what happens when—we get it all the time in this committee, conjecture. And we are told, well, Greyhound no longer serves such and such a town, as though that speaks for itself. Maybe it does not. I mean, maybe the people are not inconvenienced at all, or on the other hand, maybe their whole life pattern has changed.

To me, it would be helpful if, instead of just the bald statement that Greyhound stopped serving the town or Amtrak stopped serving the town, to analyze what really happens to people. Do they find some other mode of transportation? Is it extremely costly to them? Do they change their life pattern? Are they no longer going to where they should be going? What is the effect of all of this?

Mr. TAYLOR. I think your point is extremely well taken, because I think if you are in a suburban community where you have a lot of young people with access to automobiles, that is a very different proposition to a very small little community primarily comprised of older people. We have communities in Nevada where there are a lot of Indians who would not get to a medical center if they did not have bus service.

So the impact in specific areas, based upon the makeup of the community, is certainly important. I would suggest—I do not want to pass the buck to those that are coming behind me here. I would suggest that the agency of government that has the wherewithal to do it is the Department of Transportation, and maybe that is a good undertaking for them.

Senator **Danforth**. Good.

Thanks, Mr. Chairman.

Mr. **Taylor**. Delighted to be here.

[The statement follows:]

STATEMENT OF HON. REESE H. TAYLOR, JR., CHAIRMAN, INTERSTATE COMMERCE COMMISSION

Mr. Chairman and members of the subcommittee: I appreciate this opportunity to appear before you today to testify with regard to the Commission's implementation of the Bus Regulatory Reform Act of 1982 and its impact on the intercity bus industry and others affected by the legislation. As you know, the Commission strongly supported passage of the Bus Regulatory Reform Act and worked with Congressional staff as its provisions were drafted. I myself was actively involved in the legislation. Many of the specific reforms we advocated were included in the bus legislation which was enacted.

Most provisions of the Bus Act did not become effective until 60 days after enactment in order to allow time for development of new rules before the effective date. After the Act was signed by the President on September 20, 1982, the Commission moved expeditiously to propose implementing rules, so that the new eased regulatory scheme could be in place when the Act's provisions became effective. I am pleased to report that the Commission was successful in completing these proceedings in this very short timeframe. The rulemakings, all of which have now been completed, are listed and briefly summarized in Appendix A.[1]

As stated in our testimony urging passage of the bus legislation, we believe that the Act offers a balanced approach by easing entry into new routes, establishing a more certain procedure for exit from unprofitable service, and providing bus companies greater flexibility to price their services. We continue to believe that this approach is the most practical and efficient means available to maintain adequate service, both for the public generally and for the poor, the elderly, the military, and students, who utilize bus service in the greatest numbers.

The Bus Act ended an era of Federal and State regulation of buses that fostered the emergence of two dominant carriers in most long-haul markets and monopoly in many light-density and short-haul markets. Competition, rather than government regulation, is now to be the primary determinant of fare and service levels in the industry. Experience with other industries, such as trucking, that have moved from a regulated to a more competitive economic environment, convinces us that it may well be another year or two before the full impact of bus regulatory reform is realized. Nonetheless, in the year since passage, many firms have come forward to take advantage of the new operational freedoms offered them by the Act.

Let me begin the discussion of the effects of implementation of the Bus Act by focusing on three key areas—eased entry, rate flexibility in conjunction with limitations on antitrust immunity, and a new exit policy.

ENTRY

We are pleased to report that the Act has had a significant effect on entry. It has allowed many existing firms to rationalize route structures and to offer passengers new services at competitive fares in many regular route markets. In the past, expansion was often based on what regulation permitted, rather than a determination as to which route structures would be the most efficient and profitable additions to an existing route system. Under the Bus Act entry standards, major carriers have moved to rationalize their route structures. Many smaller carriers have also utilized this opportunity to enter into or expand existing regular route operations. There has been a dramatic increase in charter services, which require very low start-up or capital costs, through entry of new firms and territorial expansion by existing firms.

From the Act's passage until mid-October, 1983, more than 2,000 applications have been filed by new and existing firms for regular route and charter authority. Of the total, 1,097 have been filed by new applicants and 931 by existing carriers. Thus, it is clear that the entry provisions of the Bus Act are having their intended effect. Approximately 200 of these applications have been for regular route authority. Regular route applications represent about 10 percent of all applications for permanent passenger authority over this period.

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[1] The appendices referred to in this statement have been retained in the committee files.

In the area of charter and tour services, low entry costs, as indicated, have induced many new entrants to take advantage of the Bus Act. More than 1,700 charter applications have been received, and it appears that more than half have been from first-time applicants.

One issue that has arisen in the entry area concerns applications by government-subsidized carriers to operate charter and special services. These carriers may not claim the advantage of the "fitness only" burden of proof normally applicable to privately owned bus lines seeking the same authority. Rather, these applications may be denied if it is found that the proposed service is not consistent with the public interest. The American Bus Association has filed a petition to consolidate the seven pending applications of these subsidized carriers.[2] The ABA contends that it is inconsistent with the public interest to grant charter and special operations authority to any applicant which can use its subsidized position to mount potentially unfair competition against carriers operating in private enterprise. Replies have been filed, and the matter is presently pending.

RATES

The industry has also taken considerable advantage of the rate freedoms contained in the Bus Act. Although the major carriers have established a number of discount programs, fare increases have also occurred on certain routes as the industry struggles to overcome its generally weakened financial condition resulting from the recent recession. For example, certain carriers including Greyhound elected to take advantage of the zone of ratemaking freedom established by the Bus Act and increased their fares by 2 percent in January 1983. Effective March 5, 1983, interstate passenger fares were raised for these carriers by 8 percent and for others by 10 percent through a general rate increase filed by the National Bus Traffic Association. Responding to the more competitive market created by the Bus Act, however, carriers have also filed a number of independent rate actions. The majority of these independent rates have been filed by carrier members of the National Trailways Bus System and Greyhound.

With regard to the rate bureau provisions of the Act, the Commission established revised standards and procedures for the bus industry rate bureau in Ex Parte No. 297 (Sub-No. 6). In large part, the standards are similar to those adopted for the motor carrier industry, but there are several departures from our motor carrier standards, based on the differences in the two industries. The additional standards adopted by the Commission for the bus industry rate bureau are set forth in Appendix B to this statement. The National Bus Traffic Association has filed an amended agreement in conformity with the Commission's rules; comments were permitted and NBTA's reply to comments is due November 2, 1983. Subsequently, the Commission will review the amended agreement. In this regard, it should be noted that the provisions of the bus legislation further defining the scope of antitrust immunity are largely self-executing, and the Bureau and its member carriers must comply with the new legislation while the amended agreement is being considered.

Last June, the Commission testified before the Motor Carrier Ratemaking Study Commission, reiterating the view that there is even less reason for continuaton of antitrust immunity for passenger carriers than for motor carriers of property. At that time, the Commission indicated that it saw no need for continued antitrust immunity for the collective determination of general rate changes, innovative fare changes, or broad changes in the tariff structure of motor common carriers of passengers. This continues to be our view.

Prior to passage of the Bus Act, many states held intrastate rates at an artificially low level, causing subsidization of regular route intrastate passengers by interstate passengers. With the new relaxed entry policy, many carriers wold face serious financial difficulties if they faced new competition over interstate routes, while at the same time they were required to continue to provide certain intrastate services at non-compensatory fares. To preclude this possibility and to remedy situations where State actions are creating an unreasonable burden on interstate commerce, Section 17 of the Bus Act gave the Commission authority to review intrastate rates of interstate motor common carriers of passengers. Under this provision, the Commission may prescribe an intrastate rate increase if a carrier has been denied permission to increase the intrastate rate or the State authority has failed to act upon such a request within 120 days, and the Commission determines that the existing rate causes an unreasonable burden on interstate commerce. In Ex Parte No. MC-160, Procedures for Review of Intrastate Bus Rates, the Commission adopted rules for processing petitions that seek review of State regulation of intrastate rates of interstate bus over carriers.

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[2] Subsequently, on October 21, 1982, NJ Transit Bus Operations, Inc., withdrew its application.

The Commission has received 22 petitions for intrastate rate review. Sixteen have been granted—generally on the basis that the carrier's existing intrastate fares are lower (often significantly lower) than its interstate fares for comparable service within the State without any justification for the disparity, and, therefore, such intrastate fares impose an unreasonable burden on interstate commerce. Two of the petitions have been dismissed on grounds that the Commission lacked jurisdiction to consider them. For remain pending as of this date. Petitions for reopening have been filed in four of the proceedings; two have been denied and two are currently pending. Finally, in one of the dismissed proceedings, No. MC-C-10851, Greyhound Lines, Inc., instituted a court action before the United States Court of Appeals for the Ninth Circuit, on September 16, 1983.

EXIT

One of the major concerns with regulatory reform legislation involving any mode of transportation has been the effect on service to small communities. In most small communities, buses represent the only form of public passenger transportation available. Nevertheless, studies indicate that the demand for regularly scheduled intercity bus service in rural and small communities is small and has been declining for a number of years. In the decade before passage of the Bus Act, it is estimated that approximately 1800 communities lost all intercity bus service.

Since enactment of the Bus Act, Greyhound and Trailways have proposed to drop or have dropped numerous points from their route system. In the case of smaller carriers, however, it appears that few are dropping service to points they have been serving. The discontinuances that have occurred are, for the most part, not an unexpected nor unintended result of the Bus Act, since one of the aims of the Act is to provide carriers both greater entry and exit freedoms so they can best reorganize and rationaliize their route structures.

The Commission intends to monitor the extent of route discontinuances. Accordingly, questionnairs have been sent, as part of our bus terminal study, to all ICC-regulated passengers requesting the names of all points added to and deleted from their service schedules since the effective date of the Act.

In the past, bus carriers have been prevented by State regulatory authorities from dropping many routes which were severely under-utilized and, therefore, unprofitable. In order to address this problem, the Bus Act provided statutory authority for the Commission to preempt State regulation of exit from regular-route passenger service in certain circumstances. The Commission promulgated final rules implementing this provision in Ex Parte No. MC-161, Preemption of State Regulation of Regular-Route Exit—Motor Passenger Carriers.

The Commission has received 21 petitions for intrastate exit review. Each involves intrastate transportation being provided on a route over which the carrier was granted authority to provide interstate transportation on or before August 1, 1982. In such instances, the Bus Act requires the ICC to grant a petition for discontinuance unless it finds, on the basis of evidence presented by those objecting, that such discontinuance is not consistent with the public interest or that continuing the transportation will not constitute an unreasonable burden on interstate commerce. One petition has been dismissed for lack of jurisdiction, one has been denied based on a record that would not support a finding that continuation of the service would constitute an unreasonable burden on interstate commerce, two were unopposed and have been granted pursuant to 49 U.S.C. 10935(d), and none have been granted because those objecting to each proposal failed to make the requisite statutory showing. The remaining eight petitions are pending.

Because of the importance of this issue, I would like to summarize the action taken by the Commission in several representative cases. In each, the Commission had jurisdiction based on denial of an exit request by the State authority or the State's failure to take final action on a request by the 120th day after its filing.

"No. MC-1515 (Sub-No. 332), Petition of Greyhound Lines, Inc., for Review of a Decision of the West Virginia Public Service Commission Pursuant to 49 U.S.C. 10935, decided August 23, 1983, served August 25, 1983."

As the first exit case decided on the merits, this decision provides a general picture of the evidentiary factors to be considered and the relative weight to be accorded each factor. In this proceeding, Greyhound had originally requested that it be allowed to discontinue service over 11 routes, and the State Commission had granted permission to discontinue service over five of these routes. the Commission determined that Greyhound should be allowed to discontinue service over all the routes in question.

The Commission noted that the history and purpose of the Bus Act point in the direction of a lesser regulatory role, but with special concern in exit cases for those who must depend on bus service. In this case, involving a relatively narrow exit proposal, it was held that those objecting to discontinuance had not met their statutory burdens. The Commission accorded great weight, as mandated by the Bus Act, to the extent to which interstate and intrastate revenues derived from the involved service were less than the variable costs of providing the service, and it held that, in the absence of definitive evidence to the contrary, a carrier's business judgement that routes cannot be made profitable through fare increases is entitled to substantial weight. Greyhound was required to continue service for 45 days so that State, regional or local groups could consider possibly subsidy payments to Greyhound or make plans for alternative services.

"No. MC-2890 (Sub-No. 63), Petition of American Buslines, Inc., for Review of a Decision of the Nebraska Public Service Commission Pursuant to 49 U.S.C. 10935, decided September 8, 1983, served September 13, 1983."

In this case, American Buslines, Inc., a wholly-owned subsidiary of Trailways, Inc., had been denied permission by the Nebraska Public Service Commission to discontinue intrastate service over a route in Nebraska. American Buslines then petitioned the Commission for permission to discontinue the route. This decision was the first to state in specific terms the evidentiary considerations that bear directly on each statutory burden of the parties objecting to a discontinuance—whether continuing the transportation constitutes an unreasonable burden on interstate commerce and whether the discontinuance is consistent with the public interest. In granting the petition, the Commission concluded that evidence establishing that revenues are significantly below variable costs and a finding of unprofitability requires a conclusion that continuing transportation over the considered route will constitute an unreasonable burden on interstate commerce. It also concluded that, separate from consideration of route profitability, the public interest question requires consideration of, and a balance between, the local interests in support of continuing service and the policy of the Bus Act that favors exit from unprofitable routes.

To that end, the Commission held that consideration must be given to evidence of unprofitability and the attendant burden on interstate commerce, created by the necessity of cross-subsidization to sustain local and intrastate services at the expense of long haul and interstate passengers; the extent of public testimony in favor of continued service; the absence of any subsidy or offer of subsidy, which belies any strong interest in maintaining unprofitable service; and whether alternative services are available. In this instance, the showing of public need was weak, other service was available along the route, and additional parallel service was promised. Under the circumstances, the Commission found that permission to discontinue the route should be granted.

"No. MC-59238 (Sub-No. 74), Petition of Virginia Stage Lines, Inc., for Review of a Decision of the West Virginia Public Service Commission Pursuant to 49 U.S.C. 10935, decided September 13, 1983.

The Commission, in this proceeding, denied the petition of Virginia Stage Lines, Inc., a wholly-owned subsidiary of Trailways, to discontinue service over certain routes in West Virginia on the ground that the carrier failed to carry its burden of proving the revenues from, and the costs of, providing service over the route proposed to be abandoned. The Commission held that the carrier failed to meet this burden because its exhibits set forth only total figures that included revenues and costs for service beyond those proposed to be discontinued, and did not separate from the totals the amounts of revenue and costs attributed to the operations sought to be discontinued. As a result, the figures could not be considered competent to prove that revenues failed to cover variable costs. Since revenues had not been shown to be less than costs, the Commission held that the record would not support a finding that continuation of the service would constitute an unreasonable burden on interstate commerce. An appeal was filed by the carrier on October 3, 1983.

"No. MC-1515 (Sub-No. 336), Petition of Greyhound Lines, Inc. for Review of a Decision of the Oklahoma Corporation Commission Pursuant to 49 U.S.C. 10935, decided September 15, 1983, served September 19, 1983."

In this case, the Commission granted Greyhound's petition for permission to discontinue service over three routes in Oklahoma after the Oklahoma Corporation Commission failed to act on Greyhound's discontinuance request within 120 days. In this decision, the Commission specifically stated that mere identification of points and populations which will lose service cannot be taken as a sufficient showing of public interest to warrant denial of an exit request, as it is axiomatic that communities will lose service when a discontinuance is granted. While the goals of the national transportation policy require that the needs of passengers and shippers be met, a carrier should not be required to continue unprofitable operations which jeopardize its ability to provide service on other routes. Thus, even when small communities will be left without public passenger transportation, there must be meaningful evidence from protestants with regard to the impact of discontinuance in order to overcome other evidence, such as route unprofitability, which favors discontinuance.

OTHER ISSUES

To aid the Commission in assessing the impact of the Bus Act on bus passengers, we have had our Office of Compliance and Consumer Assistance gather information on the extent of bus passenger complaints to State regulatory commissions and to the ICC. For comparison purposes, we have collected complaint data for one year prior to the Act and for eight months afterward.

The overall results are encouraging. The intercity bus industry carriers passengers on almost 400 million trips a year. Yet, in the year prior to the Bus Act, we received only 296 complaints about bus service. The great majority of these, 248, or 83.7 percent, were concerned with some aspect of quality of service, such as smoking, equipment or driver problems, failure to keep to schedules, etc. In the eight months after enactment, the number of bus passenger complaints to this Commission decreased to 128 (192 on an "annualized basis"). This decrease in complaint levels was due primarily to a reduction in complaints concerned with quality of service (from 248 in the 12 months preceding the Act to 38 in the eight months after enactment).

Complaints to the States from bus passengers since enactment of the bus legislation have centered on service reductions. Counting each signature on a petition to a State Commission as a single complaint, the number of complaints to states concerning actual or proposed service reductions rose from 407 in the 12 months preceding the Act to 5,052 in the eight months after enactment. These complaints to States concerning service reductions, which are for the most part signatures on petitions involving discontinuance of points or routes or a reduction in bus schedules, constituted over 90 percent of the post-Act bus complaints to States.

In discussing the effects of the Bus Regulatory Reform Act, another factor that needs to be examined is the financial condition of the industry. The bus industry did not fare well during the recent recession. In 1982, net income of Class I carriers fell to its lowest level since 1960. As you know, concern over the industry's financial condition was one of the factors which led to passage of the Bus Act. The recent recovery has not yet improved carrier profitability. The ten largest bus companies experienced increased losses in the first quarter of 1983. While these companies had positive net income in the second quarter, earnings were 9.8 percent below levels in the same period in 1982. However, the Commission is firmly convinced that, as carriers take advantage of the new freedoms contained in the Bus Act and as the economy continues to improve, bus carriers' financial results will improve as well. Additional information concerning recent earnings of the Nation's 10 largest companies is set forth in Appendix C.

In addition to instituting the rulemakings necessary to implement the Bus Act, the Commission conducted several projects in order to assist the industry, State and local governments, and the public to adjust to the changes brought about by the Act. Shortly after enactment of the bus legislation, the Small business Assistance Office of the Commission published a booklet describing the highlights of the Bus Regulatory Reform Act and a guide to applying for permanent operating authority as a motor carrier of passengers. The Commission's Office of Special Counsel also prepared a publication, entitled "Public Participation in Interstate Commerce Commission Cases". These publications have been widely distributed to State and local officials, bus companies, and other persons interested in Commission proceedings in the bus area.

In May and June 1983, the Commission conducted 11 regional seminars which reviewed the provisions of the Bus Act, entry procedures, licensing requirements, and intrastate rate and exit issues. The seminars were well attended by existing and potential bus operators, state and local government representatives, and individuals interested in bus transportation.

The Commission's Office of Transportation Analysis is preparing a study that will focus on the market structure, conduct, and performance of the intercity bus industry and how each of these matters is affected by the Bus Act. This staff study, which should be completed by mid-November of this year, will build upon and continue an earlier study, The Intercity Bus Industry, a Preliminary Study, which was issued in 1978.

In continuing and building upon the 1978 study, the present staff study will present extensive factual information on the nature of the services that are provided by bus companies. Passenger service is being examined in terms of intrastate vs. interstate, regular route vs. charter and special operations, "commuters" vs. "travelers," and general fares vs. special (discount) fares. The role of package express as a service jointly provided with regular route service will also be discussed. Passenger profiles are being studied to determine the role of "near" substitutes (auto, plane, train) in the market for bus passenger service. The history of both State and Federal regulation of the intercity bus industry, and the emergence of Greyhound and Trailways as the two dominant firms, will also be reviewed.

A bus passenger profile and other studies are being used to assess demand characteristics of bus service and the current role of intermodal and intramodal price competition. With regard to service policies, the study will concentrate on analyzing service complaints, route abandonments, and small community service levels over the past few years. The Commission's field staff is providing assistance in this analysis.

The study will also discuss the extent, if any, of cross-subsidy within the industry, and it will examine the role of direct subsidy at the State level and the role of subsidy at the State and Federal level insofar as intermodal competition is concerned. As part of the study, the Commission's Bureau of Accounts is reviewing the profitability and financial stability of various firms.

Also, under Section 26 of the bus legislation, the Commission is conducting a study with the U.S. Department of Transportation on intercity bus terminals and stations. Questionnaires have been sent to all ICC passenger carriers and a sample of terminal and station managers. The data received is being analyzed to determine the pattern of ownership, location, and adequacy of the present terminal network. The implications of private vs. public ownership of terminals relative to the present level of competition between bus companies will also be considered.

Moreover, other competitive factors involving terminals and stations will be examined. These will include the restrictions which local governments may impose on the location of new terminals and stations, as well as the capacity of the present network of terminals and stations to adequately meet increased service demands resulting from deregulation and eased entry. Finally, the desirability of intermodal terminals and governmental assistance for non-urban bus terminals will also be explored.

CONCLUSION

I would like to conclude by emphasizing that the Commission has moved forward to implement the Bus Regulatory Reform Act, keeping in mind the Congressional findings which emphasize that the objectives of the national transportation policy can best be met through greater competition and reduced regulation. Clearly, a more competitive environment has already developed in the bus industry.

While, as mentioned earlier, it may be another year or two before the effects of passage of the Bus Act are fully realized, the Commission believes that the industry is already responding positively to the operational freedoms afforded by the Act and that the end result will be improved price and service options for bus passengers. As the existing carriers rationalize their route systems and new carriers enter the market and as noncompensatory rates are eliminated, a more efficient and financially healthy industry should develop with accompanying benefits for bus passengers.

This concludes my statement. I will be pleased to respond to any questions you may have.

[The following information was subsequently received for the record:]

INTERSTATE COMMERCE COMMISSION,
Washington, D.C., December 12, 1983.

Hon. BOB PACKWOOD,
Chairman, Committee on Commerce, Science, and Transportation, U.S. Senate, Washington, D.C.

DEAR CHAIRMAN PACKWOOD: Thank you for your recent letter requesting responses to several follow-up questions submitted as a result of the Committee's November 1 hearing on oversight of the Bus Regulatory Reform Act of 1982. Responses to those questions are enclosed.

In addition, you expressed interest in recent entry and exit statistics for the bus industry. I have formally submitted this information for the hearing record. It may be briefly summarized as follows:

Trailways has added or plans to add service to 45 additional points. Service to 55 points has been eliminated and, of these, service has been restored to 9 points.

Greyhound has added or plans to add service to 138 points; service to 1,114 points has been eliminated. The number of points to which service has been restored has not been reported. (Greyhound maintains that the number of points to which service has been eliminated is not synonymous with the number of communities which have lost service, because many of the points are highway flagstops. Also, in some cases, alternative service is available.)

I appreciate this opportunity to provide you with additional information on the implementation and effects of the Bus Act. If I can be of any further assistance, please let my know.

Sincerely yours,

REESE H. TAYLOR, Jr., *Chairman.*

Enclosure.

Question. What is your view of the current Federal/State regulatory balance which has resulted from enactment of the Bus Regulatory Reform Act of 1982? Do you believe any changes in the preemption provisions of the Act are necessary? Do you believe State authorities should be allowed to participate in *interstate* entry decisions being made by the Commission?

Answer. It is the Commission's view that the Bus Regulatory Reform Act of 1982 has resulted in an improved Federal/State regulatory balance. Under the Bus Act, the States continue to be the initial decisionmakers in exit requests and proposed fare increases. Now, however, under the preemption provisions of the Bus Act (Sections 16 and 17), when the maintenance of unprofitable routes is creating an unreasonable burden on interstate commerce, carriers can seek review at the Federal level to discontinue such routes or increase fares. We believe that the preemption provisions are working well and that no legislative changes are necessary at this time. However, the Commission intends to monitor carefully the extent and the impact of route discontinuances.

As reported in our testimony, the Bus Act has had a significant positive effect on entry, and we do not believe any modification of the entry provisions is needed at this time. The law is designed to reduce entry barriers for all forms of intercity bus service, and to permit existing bus companies to expand their operations and provide more efficient interstate and intrastate services. The entry provisions balance the needs of the national transportation policy against the legitimate interests of the States. Under current law, the State authorities are able to play a role in the entry application process. For example, States may participate in any interstate entry application for the purpose of challenging the applicant's fitness. States may also file petitions for leave to intervene to present evidence of inconsistency with the public interest.

In addition, under 49 U.S.C. § 10341, the Commission has the authority to refer certain matters concerning motor carriers, including applications for a certificate, to a joint board (composed of a member from each State) when the proposed operation involves not more than 3 States. In the past, this procedure has been used when it appears that an oral hearing is required. See Theatres Service Co. Ext.—Duluth, GA., 113 N.C.C. 744, 746-747 (1971).

Thus, State authorities already have the right to participate in interstate entry decisions.

Question. Does the ICC have any ongoing enforcement efforts with respect to identifying illegal bus operators? In your view, is there anything that can be done to make current enforcement procedures more effective?

Answer. During fiscal year 1983, the Commission's Office of Compliance and Consumer Assistance (OCCA) conducted 56 road checks at numerous locations to detect and identify unauthorized passenger carriers. In that same period, OCCA handled

97 complains involving passenger carriers which were allegedly engaged in unauthorized operations. Eighteen enforcement actions were taken against passenger carriers who engaged in unauthorized transportation, and five permanent injunctions were obtained against passenger carriers who failed to have adequate insurance. More recently, enforcement action has been taken against three Mexican-operated passenger carriers for operating without authority and insurance.

As I have previously stated in testimony before your Committee, I strongly believe that enforcement, particularly in the safety area, is very important, and one of my highest priorities as Chairman has been to ensure that the Commission's enforcement efforts are effective. We are always looking for ways to increase the effectiveness of our enforcement procedures and will continue to keep you and the Commerce Committee apprised of any plans for changes in our procedures or any possible legislative changes which might be needed in this area.

Question. On balance, does the Commission view the Bus Act to date as a success? Do you believe that the service reductions we are seeing will taper off and that we will see replacement service offered by other carriers?

Answer. On balance, the Commission views the Bus Act as a success. There has been a significant amount of entry into the industry as new carriers begin operations and existing carriers expand. Carriers are taking advantage of the reforms of the Act to rationalize their route structures. Noncompensatory rates are being increased, while innovative discount programs are being instituted as carriers become more competitive. I believe that this increasingly competitive environment will result in improved price and service choices which will benefit both the industry and the public.

At the same time, the Commission is not unmindful of the service dislocations which are resulting in some areas as the major carriers rationalize their systems. These dislocations are not entirely unexpected, and I believe that they will begin to taper off soon. For example, Greyhound has testified that they have moved to rationalize their route structure all at once, and that no further "waves" of discontinuances are anticipated. As I stated at the hearing, the availability of replacement service is critical to the success of the Bus Act. Where bus service is truly essential, I believe that replacement service will develop to meet the need, perhaps through the utilization of smaller vehicles or less frequent schedules.

Senator **Danforth**. We will hear from the Department of Transportation next.

Senator **Pressler**. Mr. Chairman, while they are getting into place, I would hope that we would soon have some very good numbers on small towns and some very good numbers on what kind of substitute services.

Mr. **Taylor**. The ratemaking study report is the thing I think everybody is really waiting for. That should be done by the first of the year.

Senator **Danforth**. Mr. Secretary, welcome back.

STATEMENT OF MATTHEW V. SCOCOZZA, ASSISTANT SECRETARY FOR POLICY AND INTERNATIONAL AFFAIRS, DEPARTMENT OF TRANSPORTATION, ACCOMPANIED BY ED RASTATTER, CHIEF, REGULATORY POLICY DIVISION, AND GARY BROEMSER, DEPUTY DIRECTOR FOR REGULATORY POLICY, OFFICE OF INDUSTRY POLICY

Mr. **Scocozza**. I have with me Mr. Ed Rastatter and Mr. Gary Broemser.

Mr. Chairman, Senator Pressler, thank you for inviting the Department here today to discuss the administration's views on economic regulation of intercity buses and the experience so far under the Bus Regulatory Reform Act of 1982.

Although only a relatively few months have passed since the implementation of the act in November 1982, the trends we see are very encouraging. The available data suggest that, while route and service point adjustments are certainly taking place within the industry, the entry and exit provisions of the act are working in tandem nicely to smooth temporary service dislocations.

By the first of July there had been approximately 1,600 applications for operating authority published in the Federal Register since implementation of the act. Some 168 of these involve applications for regular route authority. In the years 1976 to 1980, by comparison, regular route applications averaged only 40 per year. The current regular route applications include hundreds of existing and new service points and encompass approximately 34,000 route miles.

Applications for authority to operate replacement intercity regular route service have been noted in filings with the ICC for approximately one-half of the States. It should also be noted that these statistics do not include entry activity taking place at the State level. Since many applications for exit are for what are in reality intrastate route segments, new entrants on such segments might well initially apply at only the State level and would not appear in the ICC records we have been checking.

Shortly after implementation of the act, there was significant publicity surrounding the announcement of a seemingly large number of service point discontinuances. However, there have been applications by other carriers to assume some of these points. Local subsidy has been extended in certain areas where less expensive carriers are located, and in many cases the original carrier continues to operate while negotiating with State authorities. Many of these points have been carried on schedules for years without any traffic being received or discharged. Others have been only served by one trip a day, or even fewer, but the fiction of their existence as service was maintained by regulation rather than utilization.

Head-to-head fare competition is beginning to emerge, both at the interstate and the intrastate level in deregulated States, and intermodal fare competition is becoming more prevalent among bus, air, and rail carriers and routes in the 100- to 300-mile range.

Since the elimination of single-line antitrust immunity, fares in a number of markets around the country have declined, and in some cases the fares of different carriers serving a given market are no longer necessarily identical, as they traditionally had been under collective ratemaking. However, this has not occurred in the area of interline fares, which have continued to rise and are still set through general rate increases in the collective ratemaking process.

The implementation of the act has produced a flourish of innovative activity. Equipment more closely adapted to the routes operated, competitive and innovative fares, and the provision of turnkey bus systems to new operators are only a few examples.

To sum up, Mr. Chairman, we believe strongly that so far the entry and exit provisions of the act are working smoothly to preserve interstate and intrastate service levels which encourage innovation and entrepreneurship within the industry, and that the industry is making a smooth transition to independent ratemaking without antitrust immunity.

That concludes my short statement, Mr. Chairman.

Senator DANFORTH. Let me pursue the line of questioning that I had with the chairman. Do you know of any analysis as to the actual effect on people of discontinuing service, whether bus or rail service?

Mr. SCOCOZZA. Mr. Chairman, I would say that the statistics that we have to date are based on a very, very short period of history for deregulation—regulatory reform as opposed to deregulation. We are in the process of putting together an intensive research study of six or eight States, in conjunction with Indiana University, that would be looking at bus entry, abandonments, rates, and alternate services: also what is happening to individual communities, are they making use of Amtrak?

Senator DANFORTH. Let us suppose that John Doe is in Mandan, N. Dak., and he travels by bus to Minneapolis three times a year, and that has been a regular pattern and part of John Doe's life. The bus service is discontinued. What happens to him?

Does that mean he no longer travels? Does that mean that the cost of travel goes through the roof? What is the human effect on him?

I do not know that there is a good way of doing that, but it just seems to me that so often when we are told in the subcommittee about discontinuation of service it is as though almost a mechanical procedure or as though, there is some ready mechanical way to take care of it. And I am wondering if there has ever been an effort to look into the people who are really affected and find out what is happening in their lives.

Mr. SCOCOZZA. It has not been done historically, Mr. Chairman, but an aspect of the individual study that we are going to undertake with Indiana University is going to be finding out what is the closest alternative transportation that John Doe might have. It might be that 10 percent of dislocated passengers will have to travel 10 miles to the closest flag stop or bus stop or 50 miles or 30 miles or 100 miles; or alternative forms of transportation could be within 10, 20, 30, 40, 50 miles, like Amtrak.

I think once you go beyond Amtrak you're not really in the same transportation market, because someone who traditionally, for economic reasons or personal preferences, only traveled by surface transportation, they might not be a likely market to want to fly in a small commuter airplane.

Senator DANFORTH. When will that be available?

Mr. SCOCOZZA. Hopefully, before you have the next oversight of the bus regulatory reform effort.

I hope we can turn our research program over in less than 10 to 12 months. Maybe we will have something available by June.

Senator DANFORTH. Tell us about safety fitness. Do you think the present situation is adequate?

Mr. SCOCOZZA. Mr. Chairman, the Interstate Commerce Commission has passed the issue to me. It is in fact their responsibility, and the Department's responsibility, Mr. Chairman. We advise the Interstate Commerce Commission when the safety of any applicant is in question. It is up to the Interstate Commerce Commission to make the final determination on the certificate application. In many situations the Interstate Commerce Commission has reacted positively to our recommendations.

But we do keep track of insurance requirements and the individual violations that a carrier might have. If a carrier has accumulated a number of violations, we report this to the Interstate Commerce Commission. Traditionally, their activity was to halt any applications or any regulatory activity at the Interstate Commerce Commission until DOT certifies that they are again a fit and responsible carrier for safety purposes.

With respect to the investigation of the actual equipment, we have conducted, I believe, 1,162 onsite inspections in the last year and pulled 126 buses out of service for safety deficiencies. These account for over 126 pieces of equipment out of service until they have been shown to the Department of Transportation that they are fit to be put back into service.

I believe less than a dozen bus operators, drivers, have been pulled out of service for violation of the hours of service requirements.

Senator **Danforth**. Senator Pressler.

Senator **Pressler**. The figures that you referred to, we use the term "preliminary figures." Of course, it's difficult to really know—what is the program, a year old? But how preliminary are these, and could this just be an indication of a start of a trend, more or less?

How much faith do you put in the figures you have now?

Mr. **Scocozza**. Are you speaking with respect to discontinuances?

Senator **Pressler**. Yes.

Mr. **Scocozza**. I would say it is hard to tell, Senator, because many applications are pending at the Interstate Commerce Commission. They have been lumped as a result of deregulation. A lot of them are pending, a lot have been acted upon.

And in many situations, Senator, we are not actually sure of the nature of these applications as well, because historically, it was so expensive to file for a discontinuance of a route before the State regulatory agencies and the Interstate Commerce Commission that carriers merely stopped service and there was no objection, rather than go through the administrative cost of physically removing it from their schedules.

So a lot of the figures are deceptive, because what is being discontinued may not have been what was actually being served in the true sense of the word "service." So I know that, in one particular State, of 71 carrier discontinuances, some 20 points were one-directional. That is, the bus could only carry people in one direction.

It stands to reason that that may not have been a very profitable service, that you could only carry a person in one direction and then not return him.

So one of the things we are trying to do is analyze just exactly what was being served, what is pending for abandonment, and what will the net result be.

Senator **Pressler**. That is what troubles me about this, that this whole transportation deregulation area. We see on TV about low-cost flights to Hawaii, about contests, you fill out the form, you get so many points toward a free ticket, if you fly a lot between very populated areas. The same is true in bus ticket advertising.

And all this kind of leads a casual observer to believe that something really great is going on. The untold story is that quietly, while this is happening between very lucrative routes, service is being eliminated quietly or planning to be eliminated in areas of the country where markets are not so attractive.

And, traditionally, when taking some lucrative routes, you took some that were not so lucrative. Now, everybody just wants the lucrative ones and make big deals out of them. They are advertising competition and so forth.

But the fact is, there is no competition in the other areas and the common carrier responsibility is totally abandoned. Now, for example, in the area of substitute service, I would not mind if it is a 5-passenger bus or a 10-passenger bus, if it comes at a regularly scheduled time. And we do not need a 40-passenger bus going through Humboldt, S. Dak., or through 59 communities in Iowa. We might need a 10-passenger bus.

Do you have any more definitive figures on what is happening with the substitute service in terms of schedules in some of these areas that have been abandoned?

Mr. SCOCOZZA. With respect to substitute service, we know it is occurring and it is occurring at a rapid pace. I do not have the exact statistics. We have some case-by-case examples.

I should also point out that there is an example, for instance, in Kansas, where a brandnew carrier is opening up service, with these small-type buses, through about 25 communities that have never had bus service. The closest previous bus service to these communities in rural Kansas was 50 miles away.

So, we are seeing stimulation of new types of service. There is a large Midwestern carrier who is in the process of creating franchises for small entrepreneurs who want to go into the intercity bus business. It is providing on-the-job training, maintenance, and certification advice. It is a very healthy kind of activity.

But the point you are making, Senator, with respect to discontinuances is very true. There will be some communities that are going to lose service. Prior to bus deregulation, about 1,800 communities under the severely regulated regime lost service, before bus deregulation was ever enacted. I believe that was the period 1972 to 1979.

So, we are going to watch this very closely, and I think very obviously of deep concern to the Department of Transportation is what alternatives are out there and how can we insure that the public is adequately informed of alternatives and how the Government is making sure that all entrepreneurs interested in new service are aware of new opportunities under the legislation.

[The statement follows:]

STATEMENT OF MATTHEW V. SCOCOZZA, ASSISTANT SECRETARY FOR POLICY AND INTERNATIONAL AFFAIRS, U.S. DEPARTMENT OF TRANSPORTATION

Mr. Chairman and members of the Committee, thank you for inviting the Department here today to discuss the Administration's views on economic regulation of intercity buses and the experience so far under the Bus Regulatory Reform Act of 1982 (Bus Act).

Although only a relatively few months have passed since the implementation of the Act in November 1982, the trends we see are very encouraging. The available data suggest that while route and service point adjustments are certainly taking place within the industry, the entry and exit provisions of the Act are working in tandem nicely to smooth temporary service dislocations.

The small communities of rural America, some of which are being impacted by service adjustments made possible under the exit provisions of the Act, are also the beneficiaries of the new freedom granted to carriers by its entry provisions.

ENTRY

By the first of July there had been approximately 1600 applications for operating authority published in the Federal Register since the implementation of the Act. Some 168 of these involve applications for regular route authority. In the years 1976–1980, by comparison, regular route applications averaged only 40 per year. The current regular route applications include hundreds of existing and new service points and encompass approximately 34,000 route miles.

As an example, a carrier has opened a new route stretching completely across western Kansas from north to south serving some 25 communities. The nearest comparable north-south route was previously some 50 miles to the east of these communities. A recent issue of the Federal Register contained this same carrier's application for significantly expanded regular route authority in Kansas, Missouri, and Nebraska. This carrier, utilizing mini-buses and vans where full sized coaches would be impractical because of light population density, recently indicated that "We're expanding like crazy using smaller equipment—8 to 21 passenger capacity. . . . ". This same carrier has indicated it will soon be operating some 4000 miles a day of intercity service in low density population areas, and expects to receive 91 percent of its revenue from these routes.

In rural Wisconsin a new carrier has obtained authority to operate a route slated for discontinuance by a large carrier and is operating additional new routings from the same area to Chicago which do not parallel those of the existing carrier. Another existing bus company recently opened a route from New York City through western New England over a route discontinued some months previously by another carrier, and has increased service to five trips daily in each direction, compared to the previous carrier's two; moreover, it has now, after several months, applied for authority to extend this primarily roural route even further. Extensive filings for new route authorities have been made in numerous other states.

Applications across the country encompass many rural communities, including both those with existing service and those having no previous service. New applications to replace existing services of carriers discontinuing service points are not only providing for the continuation of services where there is demand, but some of these replacement services are actually providing more trips and serving more points along, and adjacent to, the old route of the original carrier.

Applications for authority to oprate "replacement" intercity regular route service has been noted in filings with the ICC for approximately one half of the states. It should also be noted that these statistics do not include entry activity taking place at the state level. Since many applications for exit are for, what are in reality, intrastate route segments, new entrants on such segments might well initially apply at only the state level, and would not appear in the ICC records we have been checking.

EXIT

Shortly after implementation of the Act, there was significant publicity surrounding the announcement of a seemingly large number of service point discontinuances. Since that announcement, there have been applications by other carriers to asume some of these points, local subsidy has been extended in certain areas while less expensive carriers are located. In many cases new carriers have not entered, because the original carriers have continued to operate while negotiating with State and local authorities.

An examination of proposed points for discontinuance in California revealed that approximately half of the points had existing alternative service and many more are points that have generated or received little or no traffic for a long time. I believe this type of "non-service point" deserves somewhat more discussion because of the recent publicity regarding bus service abandonment.

It is important to analyze the definitions which apply to intercity bus service points which have been discontinued or are proposed for discontinuance by various carriers. There are primarily two types of stops listed on any given carrier's schedule. These are "flag stops" and "time points" with or without any terminal or station facility. The "flag stop" is used to indicate that a bus will pass at a time between the two bracketing schedule times and, if signaled, will stop. Flag stops are only used at points where traffic has declined to a very low level or is non-existent. "Time points" are used to indicate the time that a bus might be expected to arrive at a particular point. Normally buses are expected to stop at a time point to receive passengers. However, much like flag stops, time points have been carried on schedules long after agency facilities have closed for lack of business, patronage patterns have altered, and even the original reason for the stop, such as a hotel or some other traffic generator, has long ceased to exist. At one time it was a common practice to have more than one stop, with or without facilities, in many communities. As the nature of intercity bus travel and the needs of its passengers have changed, many of these multiple urban stops have become redundant. In some cases, shifts in population and industrial areas have removed their possible clientele.

Many flag stops and time points have been carried on schedules for years without any traffic being received or discharged at the particular place. This is especially true if, under a particular State regulatory scheme, it was necessary to expend much time, money and effort for discontinuance, such as for notices or public hearings. These points may have been only "served" by one trip a day, or even fewer, but the fiction of their existence as "service" was maintained by regulation rather than utilization. The necessity for self-examination and the new freedom brought to the carriers by the implementation of the Act appear to have finally overcome the inertia inhibiting removal of these so-called service points. Thus, much of the service point discontinuance that has been publicized since the implementation of the Act is not really the abandonment of today's service, but only the overdue adjustment of a system evolving from one based on yesterday's needs.

In 1984, the Department plans to undertake a thorough study of exit and entry at the state level, to supplement the national data already being analyzed on a continuing basis as part of the DOT's monitoring of the impact of the Bus Act.

TERMINAL ACCESS

A problem for some new carriers seeking to enter a market, and one which indirectly may also impact exit, is terminal access. Information provided by some new entrants through conversations with DOT personnel and contained in initial data being received under the DOT/ICC Intercity Bus Terminal Survey, mandated in the Bus Act, indicates that terminal access may be an impediment to new carriers. The major carriers appear very reluctant to permit any new carriers into their facilities. These include, in some instances, even those new entrants who are taking over routes discontinued by the selfsame major carriers. Copies of correspondence supplied by new carriers indicate this policy was in place even prior to the actual passage of the Act. We have heard allegations that both major carriers have refused new entrants access to their facilities in potentially competitive, and service replacement situations, as well as where services do not compete. A number of new entrants and potential new entrants have stated that the lack of facilities and the lack of the capability to interline with major carriers, both effected through terminal access, is seriously affecting their expansion plans. We are continuing our study of this issue as mandated by the Bus Act and will send you a definitive analysis by the end of the year in the bus terminal report.

INTERSTATE AND INTRASTATE FARES

We are pleased to note that head-to-head fare competition, wherein a number of carriers compete between common points, is beginning to emerge both at the interstate level and at the intrastate level in deregulated States. Intermodal fare competition is becoming more prevalent among bus, air, and rail carriers on routes in the 100–300-mile range. Competitive fare setting, which had been virtually unheard of in this industry, but is now emerging on the intrastate level in deregulated States such as Florida and Arizona, includes such innovations as time-of-day or peak/off-peak fares, and head-to-head competition at both the intermodal and intramodal levels. Peak/off-peak fares are not only cost-based because they allocate more costs to those who prefer to travel at periods of high demand (necessitating higher capacity and resultant higher costs), but also reward the more flexible traveler (including persons over 60) who can take advantage of service provided during off-peak periods when costs are lower.

Since the implementation of the Act, with its elimination of single-line immunity, fares in a number of markets around the country have declined. The single-line fares have not only declined in these markets but the fares of different carriers serving a given market are no longer necessarily identical as they traditionally have been under collective ratemaking. Experience with non-collectively set fares in major markets under the deregulated environment of Florida has reflected similar results. However, this has not occurred in the area of interline fares which have continued to rise and are still set through general rate increases in the collective ratemaking process.

IMPACT OF PROMOTIONAL AND SPECIAL FARES UPON THE GENERAL RATE STRUCTURE

Early indications from intrastate traffic in deregulated States and interstate traffic under the Act suggest that promotional and special fares will have a significant impact in many areas and, in fact, may become the only fares charged in the more highly competitive markets.

Examination of intrastate fares in Florida under total deregulation reveals several fares being offered between given city-pairs. These fares, based on both demand related to time of day on the one hand, and perceived competition on the other, provide the potential passenger with two or three fare choices between many city-pairs. At the interstate level, fare competition is also appearing in many areas. One major carrier has filed a tariff with the ICC permitting the carrier to refund the difference between its fare, and any lower fare by a common carrier of any mode, between points common to them both.

The promotional or special fare is the epitome of independent action. At the present time, both major carriers and their subsidiaries sell a pass-type ticket which is similar in concept to the Eurail pass. Although it is normally honored only by its selling carrier group, i.e., the Greyhound pass is honored only by Greyhound, and Trailways' by Trailways, exceptions do exist in this arrangement to the extent that both carriers will honor such a pass in areas where only one of them operates. As antitrust immunity is reduced, these special fares are likely to proliferate. They will have the greatest impact in the more competitive high-traffic areas, but also in the pass-type tickets used primarily by vaction travelers, many of whom would probably be elderly.

INNOVATION AND ENTREPRENEURSHIP

In numerous ways, the implementation of the Act has produced a flourish of innovative activity in an industry not noted for innovation. We have already cited examples of new rural routes using equipment more precisely adapted to the demands of the traffic rather than the "traditional" size of bus operated on most routes. Fare competition and innovation are being tried by many carriers. It is interesting to note that innovation is not the sole province of the new entrant. Established carriers in both the regular route and charter field are making use of their new freedom to compete. A long-established carrier in the middle-Atlantic states has filed an innovative charter tariff which provides flexibility in competition not previously available to it. A large mid-western intercity bus firm has begun franchising new carriers. The new franchising service provides potential new operators with training, advice, financing, insurance, assistance in obtaining regulatory permits, and some general paperwork handling. The service is targeted toward new entrants whether they are new carriers or communities desirous of developing new or replacement services in their region.

CONCLUSION

To sum up, Mr. Chairman, we believe strongly that so far the entry and exit provisions of the Act are working smoothly to preserve intrastate and interstate service levels, while encouraging innovation and entrepreneurship within the industry, and that the industry is making a smooth transition to independent ratemaking without antitrust immunity.

[The following information was subsequently received for the record:]

U.S. DEPARTMENT OF TRANSPORTATION,
OFFICE OF THE SECRETARY OF TRANSPORTATION,
Washington, D.C., December 16, 1983.

Hon. BOB PACKWOOD,
Chairman, Committee on Commerce, Science, and Transportation, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: In response to your letter, I have enclosed materials which I hope respond fully to your questions concerning oversight of the intercity bus reforms.

In addition to responding to your written questions, you asked me to provide for the record "the number of on-site motor carrier inspections conducted by DOT in the last year and the number of violations identified." The context of both the testimony and question related to motor carriers of passengers. During fiscal year 1983, 150 passenger carrier audits were conducted at company facilities. In the first three quarters of calendar year 1983, there were 1,162 vehicles inspected either in operation or at company facilities. Of these, 126 were removed from service for equipment deficiencies and 9 drivers were removed for excessive hours of driving.

I want to congratulate you and the Subcommittee for the thorough job you are doing in conducting these oversight hearings. I feel privileged having been able to participate in them. I also enjoyed it and look forward to participating again in the future.

Sincerely,

Matthew V. Scocozza,
Assistant Secretary for Policy
and International Affairs.

Enclosure.

Question 1. At this Bus Act oversight hearing, the bus industry testified that the Department, in implementing the insurance requirement of the Bus Regulatory Reform Act of 1982, should set the insurance standards at the statute's upper limits. What is your view on such action? Do you believe DOT is likely to set the higher insurance levels? If not, why not?

Answer. The Department has now issued its final rule implementing the insurance requirements of Section 18 of the Bus Regulatory Reform Act of 1982. The rule calls for the lowest insurance levels permitted by the Act: that is, $2.5 million for buses carrying more than 15 passengers, and $750,000 for buses with 15 or fewer seats. These levels will remain in effect for two years, at which time the higher levels specified in the Act will automatically go into effect, i.e., $5 million and $1.5 million, respectively.

The regulatory evaluation which accompanied the final rule provided a number of reasons for the conclusion that higher levels are not desirable at this time. In particular, based on the data it has collected and its analysis, FHWA concluded that higher insurance levels would not increase public safety. While higher levels would provide greater insurance coverage in the event of an accident, the data indicate that coverage in excess of these minimus would not likely be needed more than once a year.

In addition to safety, FHWA considered recent insurance claims involing the bus industry, the financial condition of the carriers and new entrants, the regulatory burden on small carriers, the differential cost of insurance, and the prospective increase in insurance premiums, as well as the impact which higher insurance levels would have on entry. In addition, FHWA cited several commenters' concerns that higher premiums might actually divert revenue from maintenance and safety programs.

Accordingly, in arriving at the rule, we believe that FHWA has struck a reasonable balance between adequate protection for the public and the financial and regulatory burden on carriers, particularly small and new carriers.

Question 2. In the Department's view, do United States carriers face a reciprocity problem with Canada in terms of either the bus or trucking industries? To what extent is the Department examining this issue?

Answer. With the easing of U.S regulatory strictures on surface transportation, the bars to entry into the U.S. market for both U.S. and Canadian operators were eased. The Department has been in close and continuing touch with its Canadian counterparts to assure that U.S. operators are accorded treatment equal to that of Canadian citizens insofar as this is possible, given the current differences between the two countries' regulatory approaches. We are meeting on a regular basis with the Canadians to seek to reduce misunderstandings and differences wherever possible.

Question 3. What is your view of the current Federal/State regulatory balance with respect to the bus industry? Do you believe any changes are needed?

Answer. The preemption provisions of the Bus Regulatory Reform Act were carefully constructed to provide clearcut decisions by the ICC to override State decisions only when the evidence clearly warrants and only when the State action creates an unreasonable burden on interstate commerce. The criteria for ICC preemption make a great deal of sense. Revenues insufficient to cover variable costs justify preemption on exit. Preemption on rate increases is justified when (a) the intrastate rate level is lower than the comparable interstate rate, indicating a cross-subsidy from interstate passengers to intrastate passengers; or (b) the intrastate rate provides revenues insufficient to cover variable costs, indicating a financial loss to the carrier; or (c) the state has failed to act on the carrier's request within 120 days, indicating a "regulatory lag" which creates an unreasonable burden on interstate commerce.

We have no reason to believe that ICC preemption on either rate increases or abandonments is a problem, and believe that any changes in the legislation at this time would be premature.

Question 4. To what extent do you believe that terminal access may be a problem for new entrants into the bus industry?

Answer. As was stated in our written testimony, information provided by some new entrants through conversations with Departmental personnel and contained in data being received under the DOT/ICC Bus Terminal Study required by the Bus Act, indicates that terminal access may be an impediment to new carriers. The major carriers appear very reluctant to permit any new carriers into their facilities, even new entrants who are taking over routes discontinued by the selfsame major carriers.

While terminal access to bus carriers is not as serious a problem as it would be for air carriers, since the bus carrier can arrange for access nearby, unlike air carriers, Congress was obviously concerned about the possibility that terminal access might become a barrier to entry into the industry. Thus, we are continuing our study of this issue and will send you a definitive analysis in the Bus Terminal Study report.

Question 5. In your testimony, you noted that the bus companies are beginning to provide replacement service, and your statement for the record provided some examples. Please provide any additional examples you have concerning such service?

Answer. We have examined the data available concening bus entry under the BRRA to provide replacement service. The list below shows carriers which have obtained operating certificates and are operating service published in the *Russell's Guide.* There are also listed separately some 15 additional entry filings which have appeared, but for which we do not have direct evidence of operation.

NEW CARRIER, ROUTE, AND REPLACES

Adirondack Trailways, Watertown-Utica, NY, Greyhound.
Bonaza Bus, Pittsfield, MA-New York, NY, Resort Lines.
Carolina Trailways, Raleigh-Charlotte, NC, Greyhound.
Concord Trailways, Boston, MA-Sanford, ME, Michaud Trailways.
Englander, Bennington, VT-Williamstown, MA, Vermont Transit.
Fullington Trailways, Williamsport, PA-Cleveland, OH, Trailways, Inc.
Susquehanna Trailways, New York NY-Williamsport, PA, Trailways, Inc.
King Coal Trailways, Philadelphia-Williamsport, PA, Trailways, Inc.
Jack Rabbit, Sioux Falls, SD-Mankato, MN, Midwest Coach.
Kincaid Coach, Cedar Rapids, IA-Springfield, MO, Mo Tran.
Ramseys Trailways, Lake Providence-Monroe, LA, Trailways, Inc.
Trailways, Inc. Worcester-Haverhill, MA, Trombly Trailways.
Wisconsin-Illinois Stages, Madison, WI-Chicago, IL, Greyhound and local carrier.
Trans State-Trailways, Manhattan-Wichita, KA, Trailways, Inc.
Fifteen entry filings but no direct evidence of operation.

NEW CARRIER, ROUTE, AND REPLACES

AAA Pickup and Delivery, AL-Iuta, MS, Trailways.
Arrow Bus, Patterson NJ and NY, Charterlines.
Birnie Bus Serivce [1], Watertown-Utica, NY, Greyhound.
Blue Ridge Lines, Local routes in SC, Welbourne Bus.
Caravan Coach Lines, Local NJ routes, Manhattan Transit.
Golden Circle Tours, Kanab-St. George, UT, Willis F. Nielson.
Jack Rabbit Lines, [2] Manhattan, NY-Minneapolis, MN, Greyhound.
Mason-Dixon Coach, Northeast, MD-Philadelphia, PA, Haigler Coach System.
Morris Cab, [3] Trenton, MO-Des Moines, IO, Morris Cab.
St. Paul and Suburban Bus, Superior, WI-Minneapolis, MN, Greyhound.
Suburban Trails, Cape May, NJ-NYC, Lincoln Transit.
Tower Bus, Dearborn-Frankenmuth, MI, Greyhound.
Twin Lake Trails, Sprincfield, MS-Harrison, AR, Sunnyland Stages.
United Charter Service, Richfield, NJ-NYC, Manhattan Transit.

Question 6. You stated at the hearing that head-to-head fare competition is emerging and that bus companies are becoming more innovative. Please provide specific examples of such activities.

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[1] Probably will not start service.
[2] In part—dropped some points on route.
[3] Under new ownership.

Answer. In terms of the effects of head-to-head fare competition, the table below illustrates a number of interstate fare changes which have occurred between 1980 and 1983. These fare changes should be viewed against a backdrop of general rate increases of 47 percent taken by the industry as a whole between 1980 and March of 1983. Several notable points are shown in the table.

The first point of interest is Greyhound's selective matching of Trailways' fares. In the case of Chicago-Minneapolis, for example, Greyhound initially raised its fare by 47 percent in June 1983, but, in response to Trailways June fare cut of 16 percent, changed its September 1983 fare so that the increase holds only on those departures at times of the day when Trailways does not have departures. Greyhound matches the Trailways cut when their buses depart about the same time of day. This strategy is also evident in the cases of Boston-New York City and Chicago-Milwaukee. Greyhound's strategy is to preserve its yields as much as possible. It is a variation on the airlines' strategies of offering discounts to the pleasure at off-peak times of year and times of day. Since we do not have access to either carriers' ridership data, we can only wonder at the ridership changes taking place because of this strategy; that is, the shifting of Greyhound's passengers from higher fare to lower fare departures.

Whatever the magnitude of the shift, it clearly favors those riders who are more flexible in their travel schedules and/or whose value of time is relatively low; that is, the retired, the unemployed, students, and lower income travelers. The special concern of the Congress, those over 60 years of age, should benefit.

The second point is simply the diversity of fare changes in these markets, both increases and decreases. Clearly, in those city-pairs where only one of the two major carriers conducts operations, the rate increases tend to be the highest (Atlanta-Tallahassee, Boston-Bangor, and Cheyenne-Billings); Salt Lake City-Flagstaff is the exception. In the city-pairs where both major carriers compete, only one experienced the full 47 percent increase (Seattle-Portland) and the rest ranged from a 15 percent increase (Chicago-Milwaukee) to a 28 percent decrease (Boston-New York City).

There are also some interesting changes taking place in a number of intrastate markets. For example, Trailways has now been able to enter Ohio intrastate markets and appears to be holding down Greyhound's fare increases there. For example, for Cincinnati-Columbus, Cleveland-Cincinnati and Cleveland-Columbus, the fares rose only 3 percent, 25 percent, and 30 percent, respectively, when Trailways has departures, but at times when Greyhound faces no competition, its fares rose by 70, 65, and 60 percent, respectively.

We have not had the opportunity to anlayze these diverse fare changes and compare the new fares with fares and costs in other modes (airelines, Amtrak, and out-of-pocket costs of auto travel).

It should be noted that, during the Greyhound strike and its subsequent reduced system start-up, Trailways has rescinded its reduced fares and is generally charging the standard selling fare. On those routes Greyhound is running during the strike, it is charging half fares, and if Trailways competes on the route, Trailways is matching the half fare on one departure only, so Greyhound cannot advertise it has the "lowest fare."

We also have a few examples of innovative bus service. Jefferson Lines conducts a franchise operation in which it will set up a new motor carrier with whatever it needs to begin and continue intercity bus operations: buses of various sizes suited to fit a particular market, drivers, training of drivers and support personnel, maintenance, paperwork, accounting, etc. Jefferson has also experimented with use of "Pac Man"-type video games in some of its buses.

Sizing of buses to fit market demand in itself is fairly innovative in the industry, even though it has long seemed to many observers to make a great deal of sense. It remains to be seen whether small van-type vehicles can achieve the useful lives necessary to bring down the capital costs sufficiently in markets with thin demands.

Selective fare matching, as noted above in the case of Greyhound, and peak/off-peak fares—especially in the intrastate Florida and Boston-New York City markets—are also an innovation.

INTERCITY BUS FARE CHANGES, 1980–83

	1980 standard selling fares	June 1983				September 1983			
		Greyhound		Trailways		Greyhound		Trailways	
		Fare	Percent change	Fare	Percent change	Fare	Percent change [1]	Fare	Percent change [1]
Interstate city pairs:									
Atlanta, Ga.—Tallahassee, Fla	$27.45			$40.25	47			$40.25	47
Boston, Mass.—Augusta, Ga	95.90	$94.00	(2)	81.00	(16)	$87.00	(9)	89.00	(7)
Boston, Mass.—Bangor, Maine	30.65	34.70	13			41.30	35		
Boston, Mass.—New York, N.Y	27.70	[2] 19.95 22.00	(28) (21)	19.95	(28)	[2] 19.95 22.00	(28)	19.95	(28)
Buffalo, N.Y.—Cleveland, Ohio	20.25	29.70	47			29.75	47		
Cheyenne, Wyo.—Billings, Mont	55.75			79.00	42			79.00	42
Chicago, Ill.—Milwaukee, Wis	8.95	13.20	47	10.25	15	[2] 10.25 13.20	15 47	10.25	15
Chicago, Ill.—Minneapolis, Minn	31.90	46.80	47	26.90	(16)	[2] 26.90 46.80	(16) 47	26.90	(16)
New Orleans, La.—Houston, Tex	34.75	26.40	(24)	26.40	(24)	28.00	(19)	28.00	(19)
New York, N.Y.—Chicago, Ill	87.40	66.00	(25)	66.00	(25)	66.00	(25)	66.00	(25)
New York, N.Y.—Washington, D.C	21.25	20.00	(6)	20.00	(6)	22.50	6	22.50	6
Salt Lake City, Utah—Flagstaff, Ariz	60.30			66.00	9			66.00	9
Seattle, Wash.—Portland, Oreg	13.05	19.15	47	19.15	47	19.15	47	19.15	47

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[1] Percentage change from 1980, not from June 1983.

[2] The lower Greyhound fare applies only on those departures which coincide with those of Trailways.

Question 7. You noted during your testimony that the Department of Transportation has a contract with Indiana University to conduct an "intensive research effort in six States". Please provide a synopsis of the study to be undertaken, including an estimate of when the results of this study will be made available to this Committee.

Answer. The study proposal of Professor Clinton V. Oster of Indiana University received our highest rating of all of the bus regulatory reform proposals submitted to the 1983 University Research solicitation. It proposes to examine changes in bus service leading up to and following enactment of the Bus Regulatory Reform Act of 1982 (BRRA), with the following objectives:

1. To determine if small communities had suffered service losses prior to passage of the Act and if service losses and/or gains have occurred after the Act;
2. To assess the need, if any, for subsidies to maintain small community bus service and, if such a need is found, to develop appropriate subsidy mechanisms to avoid unintended and undesirable consequences;
3. To the extent feasible, to assess the impact of service changes on special groups, such as the elderly.

The principal methodology of the study will be a systematic comparison of service and fare data for several years prior to and following passage of the BRRA. These comparisons will be made for six or more states, including Florida and Ariziona, both of which have totally deregulated their intrastate bus industries. The other states will be selected to reflect varying degrees of regulation.

The comparisons will identify and characterize abandonments, new service initiations, significant service level changes, and significant fare changes. Comparisons will be made on a yearly basis (e.g., June 1979 versus June 1983) so that service adjustments made in response to seasonal patterns in demand will not be mistaken for changes due to regulatory reform. Once these changes have been identified, they will be related to carrier, community, and demographic factors, using appropriate statistical techniques.

A final report is due December 1984, although draft results may be available sometime in September 1984.

Senator DANFORTH. Thank you very much. It is good to have you back.

Mr. Norman Sherlock, president and chief executive officer, American Bus Association.

STATEMENT OF NORMAN R. SHERLOCK, PRESIDENT AND CHIEF EXECUTIVE OFFICER, AMERICAN BUS ASSOCIATION, ACCOMPANIED BY CHARLES WEBB, COUNSEL; T. C. KNAPPEN, CHAIRMAN, NATIONAL TRAILWAYS BUS SYSTEM; AND BOB BASSE, PRESIDENT, VIP STAGE COACHES, INC.

Mr. SHERLOCK. Thank you, Mr. Chairman. For the record, my name is Norman Sherlock, president of the American Bus Association, which has a membership of over 3,000.

With me are Ted Knappen, chairman of the National Trailways Bus System, Charlie Webb, who is ABA legal counsel and also serves as counsel for the National Bus Traffic Association, and Bob Basse of VIP Stages, from Missouri.

The Bus Act obviously has not been in existence long enough to make definitive judgments about the long-range impact on the industry. The fact is that the legislation has already yielded some pretty good results, however, and I think you have heard from both the ICC and DOT where there have been some improvements. Certainly from the carrier's point of view things are much better than before in terms of State regulation.

There are at this point some other issues we would like you to focus on. First, meaningful consideration on entry. The ICC is apparently implementing an automatic grant policy, which is based on a view that no applications can ever be inconsistent with the public interest. Congress obviously did not intend that.

There has to be some genuine examination of the public interest and a meaningful consideration of fitness. But that is not in our view what is happening at the ICC in terms of entry. Neither the ICC nor the DOT's Bureau of Motor Carrier Safety have really investigated the safety and fitness of more than a handful of people. Both agencies plead lack of funds and personnel. We see no reason why they could not make a genuine concerted effort during the applications process using the resources they do have. Meaningful insurance requirements for all operators of buses could be a very significant factor in enhancing bus safety.

Second, applications of publicly subsidized mass transit systems for charter and special operations authority. We believe it would be contrary to the public interest and sound national transportation policy to permit publicly subsidized mass transit entities to depart from their basic mission of providing commuter service, and to allow them to expand their charter capability beyond their urban base of operation.

There is no reason for these entities to be seeking nationwide charter and tour authority when that service can be provided by privately owned carriers and at no direct cost to the taxpayers.

Third, one-carrier dominance of the bus industry. The bus industry is unique in having one carrier that is so huge and dominant. Many smaller carriers are deeply concerned that the giant of the industry, Greyhound, will be able to exploit deregulation and use its immense resources to destroy them. These people believe that size is not only relevant, but critical, in looking at the effects of the entry policy of the Commission and in determining where the public interest lies.

An ICC administrative law judge has recommended approval of Greyhound's four applications for expanded authority, but has also recommended that Greyhound's overwhelming dominance of the intercity bus industry be investigated. Obviously, it would be inconsistent to approve the Greyhound applications without first resolving the issue of its dominance.

The fourth matter we would like you to focus on is that of international discrimination. We are in fact having a problem with Canada. Our carriers are not permitted to originate or terminate charter trips in the Province of Quebec, but Canadian carriers are not so restricted. The same is true of other Canadian provinces. Something needs to be done about this discrimination, and certainly it would not be in the public interest now to authorize a carrier like the Canadian National Railway to serve the United States when our carriers are barred from obtaining comparable authority in Canada.

Fifth, insurance. On November 19, the prescribed insurance level will be $5 million for a bus carrying 16 or more passengers, $1.5 million otherwise, unless the Secretary of Transportation finds that a lower level will not adversely affect the public safety and will prevent a serious disruption in transportation service.

There is no support, in our view, for either of those findings. We do not advocate the higher level of insurance to discourage people from coming into this business, but to simply assure the public that travel by bus is adequately insured. This has a direct bearing on safety.

With regard to entry, the difference in premium between a $3 million and a $5 million minimum is very small, in the nature of $42.56 a month, I believe.

Last, the retention of antitrust immunity for collective ratemaking. Many small carriers believe that without antitrust immunity, Greyhound will refuse to enter into rates for joint-line services which are competitive with its own single-line rates. The antitrust laws might be cited as a justification for such a refusal. Closure of the Greyhound network to the joint-line service of other carriers would enhance Greyhound's already dominant position within the industry.

Perhaps the most shocking development in the first year of bus regulatory reform has been the ICC's bold assertion that it can withdraw antitrust immunity for all motor carrier rate activity by administrative edict. We do not think that is so and would appreciate the committee advising the Commission of that.

Senator DANFORTH. Mr. Taylor's comment that he did not feel that there was a problem with Canada other than the subsidy problem, you do not agree with that?

Mr. SHERLOCK. Absolutely not.

Senator DANFORTH. There is clearly a problem in that U.S. companies are unable to become qualified under Canadian law to provide services?

Mr. SHERLOCK. That is correct. We receive a great many complaints from our carriers who cannot get into Canada to pick up charter groups and bring them out. That restriction does not apply in the United States to Canadian carriers, and it is a growing problem.

Senator DANFORTH. What have you done with those complaints? Have you turned them over to the ICC?

Mr. SHERLOCK. We have brought some of those complaints to the attention of the ICC. We will be filing more material with them.

We are trying to help the various carriers in looking to Canada itself to see if there is some discussion or negotiation that would alleviate the situation. But we do not have much hope that that will be fruitful. It seems to us that something will have to happen on this side of the border.

Senator DANFORTH. I would appreciate it if you could pass on some of those complaints to me. I would like to see them. I have become very interested in relations with Canada, especially trade relations with Canada and the whole question of reciprocity between the United States and Canada, and it would be very helpful to me if you could do that.

Mr. SHERLOCK. Certainly.

[The material referred to follows:]

AMERICAN BUS ASSOCIATION,
Washington, D.C., November 3, 1983.

Senator JOHN C. DANFORTH,
U.S. Senate,
Washington, D.C.

DEAR SENATOR: It was a pleasure to appear before you at the Oversight Hearings on deregulation. Your concern for safety and other problems such as discriminatory treatment by Canada was very heartening. We will provide you and the staff with continuing reports on these problem areas.

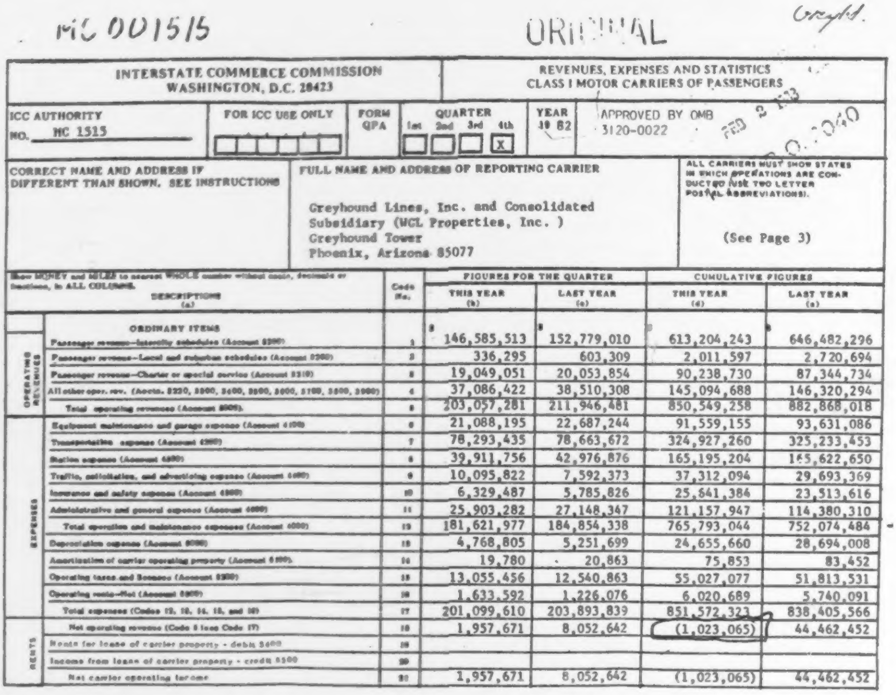
There is one aspect of the record which I think needs to be corrected, particularly since it relates to the current Greyhound situation. Greyhound indicated operating losses of $16 million last year. I'm sending you a copy of Greyhound's report to the ICC, wherein it reports operating losses of $1,023,065 in 1982. In addition, you'll see that with various adjustments to leasebacks, etc., they had a profit of $19,276,792.

I thought you would like to have this information, in the interest of accuracy.

Kindest regards,

NORMAN R. SHERLOCK.

Enclosure.



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ORIGINAL

Greyhd.

INTERSTATE COMMERCE COMMISSION WASHINGTON, D.C. 20423	REVENUES, EXPENSES AND STATISTICS CLASS I MOTOR CARRIERS OF PASSENGERS

ICC AUTHORITY NO. MC 1515	FOR ICC USE ONLY ☐☐☐☐☐☐	FORM QPA	QUARTER 1st ☐ 2nd ☐ 3rd ☐ 4th ☒	YEAR 19 82	APPROVED BY OMB 3120-0022

FEB 2 1983

CORRECT NAME AND ADDRESS IF DIFFERENT THAN SHOWN. SEE INSTRUCTIONS	FULL NAME AND ADDRESS OF REPORTING CARRIER Greyhound Lines, Inc. and Consolidated Subsidiary (WCL Properties, Inc.) Greyhound Tower Phoenix, Arizona 85077	ALL CARRIERS MUST SHOW STATES IN WHICH OPERATIONS ARE CONDUCTED (USE TWO LETTER POSTAL ABBREVIATIONS). (See Page 3)

	Show MONEY and MILES to nearest WHOLE number without cents, decimals or fractions, in ALL COLUMNS. DESCRIPTIONS (a)	Code No.	FIGURES FOR THE QUARTER THIS YEAR (b)	 LAST YEAR (c)	CUMULATIVE FIGURES THIS YEAR (d)	 LAST YEAR (e)
	ORDINARY ITEMS		$	$	$	$
OPERATING REVENUES	Passenger revenue—Intercity schedules (Account 3100)	1	146,585,513	152,779,010	613,204,243	646,482,296
	Passenger revenue—Local and suburban schedules (Account 3200)	2	336,295	603,309	2,011,597	2,720,694
	Passenger revenue—Charter or special service (Account 3210)	3	19,049,051	20,053,854	90,238,730	87,344,734
	All other oper. rev. (Accts. 3220, 3300, 3400, 3500, 3600, 3700, 3800, 3900)	4	37,086,422	38,510,308	145,094,688	146,320,294
	Total operating revenues (Account 3000).	5	203,057,281	211,946,481	850,549,258	882,868,018
EXPENSES	Equipment maintenance and garage expense (Account 4100)	6	21,088,195	22,687,244	91,559,155	93,631,086
	Transportation expense (Account 4200)	7	78,293,435	78,663,672	324,927,260	325,233,453
	Station expense (Account 4300)	8	39,911,756	42,976,876	165,195,204	165,622,650
	Traffic, solicitation, and advertising expense (Account 4400)	9	10,095,822	7,592,373	37,312,094	29,693,369
	Insurance and safety expense (Account 4500)	10	6,329,487	5,785,826	25,641,384	23,513,616
	Administrative and general expense (Account 4600)	11	25,903,282	27,148,347	121,157,947	114,380,310
	Total operation and maintenance expenses (Account 4000)	12	181,621,977	184,854,338	765,793,044	752,074,484
	Depreciation expense (Account 5000)	13	4,768,805	5,251,699	24,655,660	28,694,008
	Amortization of carrier operating property (Account 5100).	14	19,780	20,863	75,853	83,452
	Operating taxes and licenses (Account 5200)	15	13,055,456	12,540,863	55,027,077	51,813,531
	Operating rents—Net (Account 5300)	16	1,633,592	1,226,076	6,020,689	5,740,091
	Total expenses (Codes 12, 13, 14, 15, and 16)	17	201,099,610	203,893,839	851,572,323	838,405,566
RENTS	Net operating revenue (Code 5 less Code 17)	18	1,957,671	8,052,642	(1,023,065)	44,462,452
	Rents for lease of carrier property - debit 5400	19				
	Income from lease of carrier property - credit 5500	20				
	Net carrier operating income	21	1,957,671	8,052,642	(1,023,065)	44,462,452

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Show MONEY and MILES to nearest WHOLE number without cents, decimals or fractions, in ALL COLUMNS		Code No.	FIGURES FOR THE QUARTER		CUMULATIVE FIGURES	
DESCRIPTIONS (a)			THIS YEAR (b)	LAST YEAR (c)	THIS YEAR (d)	LAST YEAR (e)
OTHER INCOME	Other Income (Accounts 6000, 6100, 6200, 6300, 6400, 6500)	22	$ 4,513,730	$ 3,982,603	$ 13,542,466	$ 13,678,861
	Unusual or Infrequent Items (Credit) (6600)	23				
	Dividend Income (from investments under equity only)	24	2,562,538	2,595,676	8,539,146	7,732,451
	Undistributed earnings (losses)	25	849,124	3,179,480	7,654,159	9,916,476
	Equity in earnings (losses) of associated companies (Code 24, plus 25)	26	3,411,662	5,775,156	16,193,305	17,648,927
	Gross income (Codes 18, 19, 22 and 23)	27	9,883,063	17,810,401	28,712,706	75,790,240
INCOME DEDUCTIONS & TAXES	Other deductions (Accounts 7000, 7100, 7200, 7300, 7400, 7500)	28	4,915,363	1,223,367	13,486,791	7,219,793
	Unusual or Infrequent Items (Debit) (7600)	29				
	Total income deductions (Codes 28 and 29)	30	4,915,363	1,223,367	13,486,791	7,219,793
	Income from continuing operations before income taxes (Codes 24 and 27)	31	4,967,700	16,587,034	15,225,915	68,570,447
	Income taxes on income from continuing operations (Account 8000)	32	892,123	(331,000)	(5,585,877)	12,921,814
	Provision for deferred taxes (Account 8040)	33	23,000	4,735,500	1,535,000	8,874,500
	Income (loss) from continuing operations (Code 31 less Codes 32 and 33)	34	4,052,577	12,182,534	19,276,792	46,774,133
DISCONTINUED OPERATIONS	Income (loss) from operations of discontinued segments (Net of income taxes) (Account 8100)	35				
	Gain (loss) on disposal of discontinued segments (Net of income taxes) (Account 8120)	36				
	Income (loss) before extraordinary items (Codes 34, 35, and 36)	37	4,052,577	12,182,534	19,276,792	46,774,133
EXTRAORDINARY ITEMS AND ACCOUNTING CHANGES						
	Extraordinary Items—Net credit (debit) (Account 9010)	38				
	Income taxes on extraordinary items—Debit (credit) (Account 9050)	39				
	Provision for deferred taxes extraordinary items-Debit (Credit) (Acc. 9060)	40				
	Total extraordinary items-credit (debit) (Codes 38, 39 and 40)	41				
	Cumulative effects of changes in accounting principles (Net of income taxes) (Account 9070)	42				
	Net income (loss) (Code 37 plus Codes 41 and 42)	43	4,052,577	12,182,534	19,276,792	46,774,133
OPERATING STATISTICS						
	Miles of highway over which intercity regular route operations were conducted	44	90,125	90,328	90,125	90,328
	Vehicle-Miles operated by buses on intercity schedules (regular route)*	45	84,460,744	85,351,409	352,049,177	368,643,310
	Vehicle-Miles operated by buses on local and suburban schedules (reg. route)*	46	297,381	505,147	1,649,090	2,208,915
	Vehicle-Miles operated by buses in charter or special service*	47	10,217,911	11,423,337	49,724,038	48,324,461
	Vehicle-Miles operated by combination truck buses in intercity service*	48				
	No. of revenue passengers carried by buses on intercity schedules (reg. route)	49	11,357,854	11,251,985	47,669,730	49,358,693
	No. of revenue passengers carried by buses on local and suburban schedules (reg. route)	50	134,606	232,997	765,641	1,193,082
	No. of revenue passengers carried by buses in charter or special service	51	2,321,203	2,389,753	9,469,455	9,694,500
FUEL STATISTICS						
	Fuel expenses (Account 4220)	52	$ 16,483,372	$ 17,522,402	$ 67,972,128	$ 74,567,152
	Fuel tax expense (Account 5210)	53	$ 1,802,896	$ 1,638,853	$ 7,118,447	$ 6,744,000
	Gallons of fuel consumed	54	17,170,222	17,479,241	72,010,925	74,021,453

*Include both loaded and empty mileage of owned and leased vehicles.

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MAN-HOURS PAID FOR AND COMPENSATION OF DRIVERS (MONEY and HOURS should be shown to nearest WHOLE number)

FOR PAYROLL PERIOD	Total number of drivers on payroll during payroll period (a)	Total compensation paid to drivers during payroll period (b)	Total man hours paid for during payroll period (c)
FROM November 1 19 82 TO AND INCLUDING November 15 19 82	7,409	$ 8,212,212	581,099

States in which operations are principally conducted: AL, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, LA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY, Quebec, Manitoba, BC, Canada, Mexico

CERTIFICATION

I, the undersigned, D. M. Parsons, Vice President - Controller (Title of officer in charge of the accounts) of Greyhound Lines, Inc. (Full name of reporting company) ______, state that this report was prepared by me or under my supervision; that I have carefully examined it; and on the basis of my knowledge, belief, and verification (where necessary) I declare it to be a full, true and correct statement of the revenues and expenses named, and that the various items here reported were determined in accordance with effective rules promulgated by the Interstate Commerce Commission.

Signature D M Parsons

Telephone No. (602) 248-6830
(Area code) (Telephone number)

Date January 28, 19 83

REMARKS

INSTRUCTIONS

1 Under Order of the Commission, Class I motor carriers of passengers are required to file quarterly reports of revenues, expenses and statistics herein called for, in duplicate, in the Bureau of Accounts, Interstate Commerce Commission, Washington, D.C. 20423, within 30 days after the close of the period to which they relate.

2 In preparing the report, be certain to show the carrier's correct name and mailing address. The carrier's mailing address is the address where correspondence relating to accounting and reporting is to be directed, including P. O. BOX number, if applicable. The third copy of the report should be retained by the carrier in his files.

3 Mergers, consolidations, purchases, leases, sales, etc., of all or any part of operating authority, rights, etc., should be explained briefly under Remarks and Footnotes, including motor carrier finance number, consummation dates, and related information. If report is the last to be filed because the carrier ceased operations, it should be plainly marked "Final Report" at the top of the form and the reason stated therefor under Remarks and Footnotes.

4 The revenue, operation and maintenance, and other expense items in this report should be taken from and agree with the accounts kept in conformity with the current uniform system of accounts prescribed by the Interstate Commerce Commission for Class I motor carriers of passengers. The account numbers in the "Items" column refer to the account numbers prescribed in the accounting regulations. This statement should cover the operations of the reporting carrier from the beginning of business on the first day to the close of the last day of the period covered. *Deficits, losses, or other reverse items must be indicated in parentheses.* Carriers which keep their accounts on a 4-week instead of a calendar-month basis may report three such 4-week periods in each of the returns for the first three quarters and the four remaining periods in the last quarter. Carriers so reporting should note the fact under "REMARKS."

5 Large differences between figures reported in the current quarter and those for the preceding quarter or for the same quarter of the previous year and other unusual items should be explained under "Remarks."

6 INTERCITY SCHEDULES shall include all schedules (other than charter or special service) operated beyond the limits defined for local and suburban schedules. LOCAL AND SURBURBAN SCHEDULES shall include schedules (other than charter or special service) operated within a city or town including the suburban area contiguous thereto.

7 Line 22 includes dividend income from investments to which the cost method of accounting applies.

8. Item 24 includes only dividends accounted for under the equity method. Item 25 includes the undistributed earnings from investments accounted for under the equity method. Item 26 represents the earnings (losses) of investee companies accounted for under the equity method.

9 Item 32 represents the accrual of income taxes on ordinary income. Income taxes which are refundable or reduced as a result of carry-back or carry-forward of operating loss shall be included in the year in which the loss occurs, or if a carry-forward, in the year in which applied to reduce taxes, unless the amount constitutes an extraordinary item. (See instruction 7, Uniform System of Accounts for Class I Common and Contract Motor Carriers of Passengers). Income taxes on extraordinary items (account 9050) are to be reported in Item 39.

10. Data reported in "Man-hours Paid for and Compensation of Drivers and Helpers" shall cover and be based on the payroll period which includes the 12th day of the second month of each quarter.

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Senator Danforth. On the entry situation, of course, if service is going to be provided to communities it has to be possible not only for service to be discontinued, but also for people to come in and fill the gap. But your view is that entry is just too easy now; is that right? That there is no meaningful screening and no meaningful safety fitness requirement?

Mr. Sherlock. That is correct. It is very simple to get authority if you want it to do just about anything, and we would be very concerned if that also would now apply to publicly subsidized mass transit entities.

Senator Danforth. Do you think the safety of bus transportation is as great an issue as it was prior to the passage of the Bus Act?

Mr. Sherlock. Yes, I do. I am very concerned that in this coming decade we maintain safety. I think the way we do that is through the kind of legislation you have sponsored and the insurance requirements that really cover people if there is an accident.

Senator Danforth. Yes, and also to give the insurance companies an incentive to—do they do that in fact? Are the insurance companies in fact one of the watchdogs of safety in the bus industry?

Mr. Sherlock. Insurance rates generally reflect the experience of the carrier, so that if you have an unsafe operator the fact is his premiums are going to be higher, the same as with someone driving a car. Some carriers come in, do not have any history, and it is difficult for the insurance company now to judge where to set those premiums until they get some history on them.

Senator Danforth. Tell us about the competition from subsidized buses. Is that a recurrent problem, a feared future problem? What is the extent of it? What is the nature of it?

Mr. Sherlock. We routinely, as private operators, compete with publicly subsidized mass transit districts, sometimes on prescribed runs on a regular basis and in a lot of cases with the charters that they operate on weekends.

Setting that aside, the new problem is the fact that a number of them have applied for nationwide tour and charter authority. There were seven cases. I believe there are only five now. Montreal, I think, has withdrawn its application, as has New Jersey Transit.

If publicly subsidized transit districts are allowed to engage in this kind of activity all over the country, you are going to see a tragedy for private operators in the charter area, because we simply cannot compete with the rates that these people can charge by using their subsidy leverage. We will see a lot of private charter operators go out of business.

Senator Danforth. Just to spell out an example of what you are talking about, say, the bus company here in Washington, D.C., which is subsidized, using some of its buses to provide charter service which would be in competition with you?

Mr. Sherlock. They do routinely within the urban areas now. But say it might be something in the case where Metro would dedicate 100 buses and they might be going to Las Vegas, or they might be going to San Diego. They might have branch offices set out across the United States, dispersing fleets, completely departing from their basic mission of commuter service.

Senator **DANFORTH**. Right. Have you seen that in the last year? Has there been a movement in that direction?

Mr. **SHERLOCK**. Well, they are filing. We have to assume that if they get the authority they will use it. We have seen a lot of transgressions by the transit districts already, leaving their base of operation.

It is not too difficult to go to downtown Washington and Williamsburg and other places and take a look and see a New Jersey Transit bus. Under its existing authority, it is perhaps violating the law.

[The statement follows:]

STATEMENT OF NORMAN R. SHERLOCK, PRESIDENT, AMERICAN BUS ASSOCIATION

Mr. Chairman and Members of the Subcommittee: I appreciate this opportunity to present the views of the American Bus Association at the initial oversight hearings of the committee on bus regulatory reform.

Obviously, the Bus Act has not been in existence long enough to make definitive judgments about the full impact that it will have on the public and the industry. It is clear, however, that the regulatory reform legislation which this Committee worked on last year has yielded some significant benefits, already, particularly in terms of the bus industry's ability to provide better service.

There is definitely a more intensely competitive environment in the bus business today and the public is reaping the benefits derived from a broader range of schedules and services, some of which are very innovative and unique. Bus companies clearly will be able now to shake off the yoke of repressive State regulation which previously prevented them from adjusting schedules in a timely fashion, charging reasonable intrastate passenger fares, and discontinuing uneconomic service.

Aside from these positive things, there are a number of existing or evolving problems upon which we would like the Committee to focus.

ENTRY

As shown by Appendix A[1] to my statement, over 200 applications have been filed for authority to transport passengers over regular routes. Not a single application has been denied. The ICC's automatic grant policy reflects its apparent conviction that no application for authority to transport passengers can ever be inconsistent with the public interest. We can only conclude that the ICC has not conducted any meaningful examination of potential entrants even though the Congress clearly intended that this be done.

The Bus Act specifically prohibits the Commission from using a master certification procedure for the authorization of regular-route service.[2] This Committee said in its report—

". . . the provision [on entry procedure] creates a presumption that the grant of the application is consistent with the public interest. This means that the burden will be on any protestant to provide sufficient evidence to negate the presumption of consistency. It should be clearly understood, however, that the burden placed on protestants is not insurmountable, and that the entry test should not be treated by the ICC as a regulatory charade." [3]

The ICC's disregard of Congressional intent is even more appealling when viewed against the background of the Bus Act. A major impetus for regulatory reform was the conviction of the bus industry and of the Congress that the ICC should not be permitted to deregulate the industry by administrative decree. The proceeding which caused the greatest concern was Ex Parte No. MC-133.[4] In that proceeding, the ICC considered a proposal to establish a master certification procedure under which any person could obtain regular-route authority merely upon proof of fitness. Action in Ex Parte No. MC-133 was deferred pending Congressional consideration of bus regulatory reform legislation. Although the Congress prohibited master certification, the ICC is achieving the same result by its automatic grant policy.

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[1] The appendices referred to have been retained in the committee files.

[2] 49 U.S.C. 10922(c)(5).

[3] S. Rep. No. 97-411, 97th Cong., 2d Sess. (1982) 16.

[4] Entry Flexibility—Regular Route Passenger Service, 44 Fed. Reg. 64845 (November 8, 1979).

Regulation of entry has become a regulatory charade or, in the words of Chairman Taylor, "a monumental sham of paper shuffling." [5] Entry regulation would not be a sham if Commissioners made a conscientious effort to apply the public interest criteria spelled out by the Congress in section 6 of the Bus Act [6] and if meaningful fitness standards were applied.

SAFETY FITNESS

To the best of my knowledge, the ICC has not denied a single application on grounds of safety unfitness. It is inconceivable that all of the 938 first-time applicants for charter and special operations authority could pass a rigorous safety check. Neither the ICC nor the DOT's Bureau of Motor Carrier Safety have investigated the safety fitness of more than a handful of applicants. Both agencies plead lack of funds and personnel but we see no reason why they cannot make a genuine, concerted effort during the application process using the resources they have.

Safety, after all, is and should be of critical concern to everyone. The private bus industry, which we represent, has always given safety the highest priority and there is no reason why new entrants into the business should be allowed to deviate from safety standards through administrative default. The overriding premise should be that all buses should be safe if they are allowed to use the nation's streets and highways, no matter who owns or operates them.

Meaningful insurance standards for all operators of buses could be a significant factor in enhancing bus safety.

CRITICAL PENDING ISSUES

Whether the new legislation proves to be even moderately successful will depend on how the entry issue and five other critical pending issues are resolved.

1. *Applications of subsidized transport systems for charter and special operations authority.*—Recognizing that competition between subsidized and unsubsidized charter bus operators should not be encouraged, the Congress made the charter and special applications of public transit authorities subject to the public interest entry standard. Carriers which do not receive governmental financial assistance for the purchase or operation of buses may obtain charter and special operations authority merely upon proof of fitness.

Five applications to transport passengers in charter and special operations have been filed by recipients of substantial governmental financial assistance. Two applicants seek authority between all points in the United States; [7] one seeks broad radial authority to all points in the United States; [8] and the other two seek less extensive authority.[9]

Four of the applications were published in the fitness-only category even though the applicants had indicated that they were recipients of substantial governmental financial assistance.

The ICC's rules require that the nature and extent of governmental financial assistance be disclosed by the applicants but none of the subsidized mass transit systems has made the required disclosure. The ICC's rules require a description of the service proposed. None of the subsidized applicants has explained how it would originate charters and tours hundreds or thousands of miles from its base territory or why it wants to do so.

We believe it would be contrary to public interest and the national transportation policy to permit publicly subsidized mass transportation entities to depart from their established mission of providing commuter service and to expand their charter capability beyond their urban base of operations. There is no reason for these entities to be seeking nationwide charter and tour authority when that service can be provided by privately-owned carriers and at no cost to taxpayers.

We agree, and we hope this Committee and the ICC will agree, with the following conclusion of Chairman Howard of the House Committee on Public Works and Transportation:

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[5] Testimony before the Senate Committee on Commerce, Science, and Transporation, Oversight Hearings on the Motor Carrier Act of 1980, September 21, 1983.

[6] 49 U.S.C. 10922(c)(3).

[7] MC-169015—Canadian National Railway Co.; and MC-169358—Cambria County (Pa.) Transit Authority.

[8] MC-164973—Manchester (N.H.) Transit Authority.

[9] MC-168258—Panhandle Area Transit, Inc. d.b.a. P.A.T.; and MC-168774—Audubon Area Community Services, Inc.

"The Bus Regulatory Reform act is not intended to provide a loophole whereby publicly subsidized mass transit authorities could obtain nationwide tour and charter authority." [10]

2. *One-carrier dominance of the bus industry.*—The bus industry is unique in having one carrier that is so huge and dominant. Many smaller carriers are deeply concerned that the giant of the industry, Greyhound, will be able to exploit deregulation and use its immense resources to destroy them. Clearly, a central premise of regulation is to increase competition, not to eliminate it. Many smaller carriers believe that is what will happen unless proper attention is paid to the problem. These people believe that size is not only relevant but critical in looking at the effects of the entry policy of the Commission and in determining where the public interest lies.

Greyhound, in four pending applications for regular-route authority,[11] has blanketed key routes of two small regional carriers, Peter Pan Bus Lines, Inc. and Bonanza Bus Lines; several independently owned and operated members of the National Trailways Bus System; and Trailways, Inc. itself. If these applications are approved, one can predict with confidence that no regular-route application will ever be denied.

An ICC Administrative Law Judge has recommended approval of Greyhound's four applications but has also recommended that the ICC investigate Greyhound's overwhelming dominance of the intercity bus industry and determine whether such dominance was attained by unlawful means. The Administrative Law Judge noted that: "A finding that Greyhound willfully engages in such [an unreasonable transportation] practice for the purpose of increasing its domination of nationally scheduled bus service may result in suspension of its authority."

Obviously, it would be inconsistent to approve the Greyhound applications without first resolving the issue of its dominance of the industry. Clearly, the investigation should be conducted and concluded before substantial additional authority is granted.

3. *U.S.—Canadian reciprocity.*—We know, of course, that the President has lifted the moratorium on grants of operating authority to Canadian bus and truck operators. It would be contrary to the public interest, however, to authorize a Canadian carrier to transport passengers in the United States if United States carriers, but not Canadian carriers, are barred from obtaining comparable operating authority in Canada. That issue is presented in the pending application of the Canadian National Railway to transport passengers in charter and special operations between points in the United States. Our carriers are not permitted to originate or terminate charter trips in the Province of Quebec but Canadian carriers are not similarly restricted.[12] The same is true of other Canadian Provinces. We frequently receive complaints that U.S. carriers cannot operate in Canada with the same freedom and rights enjoyed by Canadian carriers.

Canadian carriers have been authorized to pick up charter and tour groups at points in the United States, transport them to other points in the United States, and return the groups to the United States point of origin. Our carriers tells us they are not permitted to provide similar service in Canada but that Canadian carriers are not similarly restricted. We seek equality of treatment and do not believe that ICC entry policy should foster inequality.

4. *Minimum required levels of insurance.*—Section 18(b) of the Bus Act provides that the minimum levels of financial responsibility established by the Secretary of Transportation shall be—

(1) Not less than $5,000,000 for any vehicle with a seating capacity of 16 passengers or more; and

(2) Not less than $1,500,000 for any vehicle with a seating capacity of 15 passengers or less.

These minimum levels of insurance will become effective on November 19, 1983, unless a lower level is prescribed by the Secretary of Transportation. The statutory minima may be reduced from $5,000,000 to $2,500,000 and from $1,500,000 to $750,000—

If the Secretary finds that such reduction will not adversely affect public safety and will prevent a serious disruption in transportation service. (Emphasis supplied).

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[10] Cong. Rec., October 7, 1983, p. E 4896-7.

[11] No. MC-1515 (Sub-Nos. 342-327).

[12] See the legal opinion of the firm of Campbell, Pepper, Laffoley of Montreal, attached as Exhibit A to the protest of Vermont Transit Co., Inc., in No. MC-169015, Application of Canadian National Railway Co. d/b/a Roadcruiser Service. A copy of that opinion is attached as Appendix D to this statement.

No support exists for either finding.

We do not advocate the higher minimum level to discourage entry but to assure the public that travel by bus is adequately insured. Adequate insurance also has a direct bearing on safety.

With respect to entry, the difference between a $2,500,000 minimum and a $5,000,000 minimum is negligible. An example supplied by the Department of Transportation shows that the annual premium cost of $1,800 per bus per year for $3,000,000 worth of liability insurance would be increased by only $42.16 per month if the required level were $5,000,000.[13] Our insurance people indicate that after the first million dollars of coverage, the cost of each additional million dollars of coverage up to $5,000,000 would be only $300 per million for an operator of 20 buses or less depending to some extent, of course, on his or her experience. For operators of 21 to 40, 41 to 60, and 61 to 80 buses, the additional cost would be only $600 per million, $700 per million, and $800 per million, respectively.

The DOT's Notice of Proposed Rulemaking points out that the intercity bus industry has a better safety record that the trucking industry and concludes that the accident cost data "indicates that the 2-year phase-in period may be advisable." The accident data upon which the tentative conclusion is based does not reflect the experience of a significantly different bus population. Hundreds of new carriers with no previous experience in intercity bus operations have recently entered the field. Only a handful of these carriers have been audited for safety compliance by the Bureau of Motor Carrier Safety. The Secretary of Transportation should be reminded about the commuter bus accident at Triangle, Virginia, on I-95 on February 18, 1981. That accident resulted in 11 deaths, 13 persons seriously injured, and liability claims of between $14,000,000 and $15,000,000. The carrier was insured for only $300,000.

5. *Retention of antitrust immunity for collective ratemaking.*—Section 10 of the Bus Act revised the standards for approval of a rate bureau agreement; established rules governing the functioning of a rate bureau; and curtailed the permissible scope of collective ratemaking. Rules governing the operations of the National Bus Traffic Association are now in place and the carriers are in compliance.[14]

NBTA has submitted to the ICC for its approval an amended rate agreement which reflects the narrower scope of collective ratemaking mandated by the Congress. In the future, carriers may not discuss or vote upon single-line or joint-line rates with antitrust immunity except in connection with a general rate increase or decrease, broad change in tariff structure, promotional or innovative fare changes, and rules and regulations of general applicability. This Committee felt, and the Congress agreed, that immunity should be retained for joint consideration of promotional and innovative fares because such fares are below standard fares, benefit the traveling public, and should be encouraged.

The industry, pursuant to the immunity which exists for collective consideration of broad changes in tariff structure, has launched a tariff simplification program. By establishing a mileage scale of fares, it will be possible to substitute a single page of applicable fares for the point-to-point fares now published in three feet of tariffs. Such an effort can only be broght to fruition by continuation of antitrust immunity for collective ratemaking.

Many small carriers believe that, absent antitrust immunity, Greyhound will refuse to enter into rates for joint-line service which are competitive with its own single-line rates. The antitrust laws might be cited as a justification for such a refusal. Closure of the Greyhound network to the joint-line service of other carriers would enhance Greyhound's already dominant position.

Perhaps the most shocking development in the first year of bus regulatory reform has been the ICC's bold assertion that it can withdraw antitrust immunity for all motor carrier rate activity by administrative edict.[15] Repeal of the collective ratemaking provisions of the Bus Act by administrative action would be a usurpation of legislative authority which the Congress should not countenance. Although Section 10 of the Bus Act curtails the permissible scope of collective ratemaking, it also reduced the Commission's discretion in regulating rate bureaus. Section 10 of the Bus Act incorporates the standards of section 14 of the Motor Carrier Act of 1980, which unequivocally approved rate bureaus which comply with the statute's procedural requirements.[16] As noted in the report of this Committee on the Motor Carrier Act of 1980—

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[13] Minimum Levels of Financial Responsibility for Motor Carriers of Passengers, U.S. Department of Transportation (January 10, 1983) 18.

[14] The regulations adopted by the Commission in Ex Parte No. 297 (Sub-No. 6), Bus Rate Bureau Procedures, 367 I.C.C. 313 (1983) are codified at 49 CFR 1331.5.

[15] In Ex Parte No. MC-172, Withdrawal of Antitrust Immunity for Collective Ratemaking on Small Shipments, 48 Fed. Reg. 46399 (October 12, 1983), the ICC announced that total withdrawal of antitrust immunity will also be considered. Comments on that phase of the proceeding are due December 12, 1983.

It is important to observe that this legislation does not propose to eliminate rate bureaus.[17]

This is a clear example of Congress defining the limits which it believes the Commission should follow and reducing the discretion of the Commission to expand those limits. When the parties to an agreement meet all the conditions in the section, there is a presumption that the Commission should find the agreement to be in the public interest.[18]

At a hearing before the Motor Carrier Ratemaking Study Commission on June 16, 1983, Chairman Taylor was asked whether the Commission would terminate antitrust immunity if the Study Commission so recommended. The ICC Chairman replied: "Absolutely, without question." [19] Changing the scope of or terminating antitrust immunity for collective ratemaking is a prerogative reserved to the Congress. If there is any doubt about the ICC's lack of authority, this Committee should consider appropriate remedial action.

INTRASTATE BUS RATES

One of the most important benefits derived from the Bus Act has been the ability of carriers to increase depressed intrastate bus rates. So far, the ICC has granted the carriers' requests in 15 of the 17 cases appealed from State commissions. The cases are listed in Appendix B to my statement. Even after applying the increases approved in these cases, the intrastate rates remain substantially below the comparable interstate rates. Clearly, the carriers have exercised restraint in raising fares.

The ICC has developed a sound set of rules which has enabled it to dispose of intrastate rate cases within the 60-day period allotted by the Congress. Also, the ICC has applied standards that are clear and rational. In the typical case, the ICC has ascertained the extent to which intrastate rates are below comparable interstate levesl. It then examines the evidence to determine whehter there is any justification for the rate disaprity. Finally, the ICC evaluates any cost data of record to determine whether the intrastate rates impose an acutal burden on interstate commerce.

Passengers will also benefit from the rate preemption provisions of the Bus Act. As noted in the report of your Committee, discriminatory State rate regulation had compelled interstae passengers to subsidize intrastate passengers, the net effect of which was to discourage entry into the regular route market.[20] Elimination of the cross-subsidy should improve both interstate and intrastate service.

DISCONTINUANCE OF INTRASTATE SERVICE

The exit provisions of the new law, coupled with the rate and schedule preemption provisions, may enable bus carriers to escape the financial disaster experienced by carriers of other modes. After referring to "the near impossibility for carriers to discontinue strictly intrastate routes," this Committee concluded in its report on the bill which became the Bus Act:

"As result, a large number of routes, particularly intrastate routes serving rural communities, are cross-subsidized by more profitable interstate routes and charter operations. This has a corresponding effect on interstate traffic as well." [21]

ABA members have been cautious in seeking State and ICC permission to discontinue service. As indicated in Appendix C to my statement, the ICC has decided only 12 discontinuance cases and only seven such cases were pending as of October 24, 1983.[22] In this area, as in the rate preemption area, the ICC has enunciated decisional standards that are clear and equitable. in essence, the ICC balances the need for the service proposed to be discontinued against the burden of continued operation. In each case, the revenues and costs associated with operations over the route must be ascertained, together with whether there is a realistic prospect of subsidy.

Members of ABA realize that discontinuance of bus service at a community having no other form of public transportation is a grave step. Some adjustments in service may create hardship but the fact remains that the Bus Act has generated much more new bus service than the amount of service discontinued,

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[16] Pub. L. 96-296, 94 Stat. 793, 49 U.S.C. 10706 (b)(2).

[17] S. Rep. No. 96-641, 96th Cong., 2d Sess. (1980) 14.

[18] Ibid.

[19] Hearing Transcript 136.

[20] S. Rep. No. 97-411, 97th Cong., 2d Sess. (1982) 11.

[21] S. Rep. No. 97-411, 97th Cong., 2d Sess. (1982) 8.

[22] ABA members filed only 7 of the 19 exit case appeals to the ICC.

INTERSTATE RATE REGULATION

Regulation of interstate passenger fares and express rates was relaxed by section 9 of the Bus Act which established a revised rule of ratemaking and by section 11 which established a progressively expanding zone of rate freedom. the ICC's implementing regulations are in general accord with Congressional intent.

UNIFORM STATE REGULATION

Section 19 of the Motor Carrier Act of 1980 recognized the pressing need for greater uniformity of State regulation. As directed by section 19, the Secretary of Transportation and the ICC have investigated the problem and have submitted their recommendations to the Congress. The DOT and the ICC produced a good report. Action to implement it should be undertaken as quickly as possible.

Our objective is to achieve a degree of uniformity in regulation which will enable buses to move from State to State as freely as the private automobile. Few actions would be of greater benefit to the traveling public than the elimination of unnecessary trip permits, duplicative filing and reporting requirements, and the vast array of duplicative State requirements on licensing, vehicle inspection, and payment of fuel taxies.

Greater uniformity of regulation as between the States and the Federal government would reduce for both carriers and government agencies the costs involved in processing intrastate rate requests and applications to discontinue service.

CONCLUSION

The Bus Regulatory Reform Act of 1982 was the product of a carefully crafted compromise. None of the participants in the legislative process was completely satisfied. In most respects, the ICC has executed the will of the Congress, but in disregarding the public interest standard of entry, in failing to enforce fitness standards, and in threatening to abolish antitrust immunity, the ICC has subverted the rule of law.

Many crucial issues remain to be decided by the ICC. We urge the Committee to pay careful attention to these issues to see that Congressional intent is respected. The resolution of these issues—subsidized transit authority charter/special applications, one-carrier dominance, discriminatory international practices, minimum required levels of insurance, and retention of antitrust immunity for collective ratemaking—will have a tremendous impact on shaping the future competitive posture of the intercity bus industry.

[The following information was subsequently received for the record:]

QUESTIONS OF THE COMMITTEE AND THE ANSWERS THERETO

Question 1. You mentioned in your testimony that it appears that the Interstate Commerce Commission has not conducted any meaningful examination of potential entrants. What, in your view, could the Commission do to improve this process?

Answer. In my opinion, the Commission should make an objective examination of the record in each application proceeding to determine whether the benefits to be derived by the applicant and the general public from approval of the proposed service are outweighed by any of the following disadvantages:

(a) Diminution of competition by replacement of a relatively small, independent bus operator by a dominant carrier;

(b) Discontinuance of marginal service resulting from authorization of new service only over profitable routes;

(c) discontinuance of services to small communities resulting from authorization of new service to major citizens by carriers who decline to serve small communities;

(d) Loss of a substantial portion of a carrrier's regular-route service resulting from approval of competing service over the most lucrative route segments of an incumbent carrier; and,

(e) Probable discountinuance of commuter bus service resulting from authorization to operate at peak traffic hours but without any corollary obligation to operate at off-peak hours.

My criticism of the Commission was not aimed at its procedures but at its philosophy; specifically, its conviction that no application for motor carrier operating authority can ever be inconsistent with the public interest, the Congress' belief to the contrary notwithstanding. Without a restoration of objectivity by the Commission, its entry processes cannot be improved.

Question 2. You explained in your statement that the bus industry is engaging in a tariff simplification program. Why do you believe antitrust immunity is needed for such a program?

Answer. Simplification of the bus industry's tariff structure requires changes in the existing structure that are broad in scope and nature; affect both single-line and joint-line rates; involve multiple origins and destinations; and include both increases and decreases in rates. That is the type of rate activity which the Congress intended to exempt from the operation of the antitrust laws when it excepted "broad change in tariff structure" from the prohibitions against collective ratemaking. 126 Cong. Rec. H5411 (daily ed. June 19, 1980) (remarks of Rep. Boner). Consistent with Congress' intent, the ICC has adopted the following definition in *Bus Rate Bureau Procedures*, 367 I.C.C. 313 (1983):

"A 'broad change in tariff structure' modifies in a relatively nonuniform fashion the relationship between most rates published in a rate bureau's tariff, and applies to a large area, either nationally or regionally. (49 CFR 1331.5(j)(2)."

At the present time, the bus industry is considering a basic passenger fare restructuring which would replace millions or point-to-point fares in a three-foot tariff with mileage zone fares which can be shown on a single sheet of paper. While it is true that each individual carrier simplify its own tariffs applicable to transportation entirely over its own lines, tariff simplification for joint-line movements cannot be achieved without antitrust immunity. Tariff simplification necessarily involves some upward and downward adjustment in fares and requires discussions of price which, absent immunity, would be per se violations of the antitrust laws.

Question 3. What is your view of the Federal/State regulatory balance that has emerged as a result of the Bus Regulatory Reform Act? Do you believe any changes in the preemption provisions of the Bus Act are needed?

Answer. Experience under the Bus Regulatory Reform Act to date has shown that the Congress struck a proper Federal-State regulatory balance when it partially preempted State authority over discontinuance of service, rates, and scheduling. In my opinion, no changes in the premption provisions of the Bus Act are warranted at this time.

In the rate preemption area, the ICC has applied standards that are clear and rational. In the typical case, the higher intrastate fares approved by the ICC have been significantly below comparable interstate fares.

In the exit area, as in the rate preemption area, the ICC has enunciated decisional standards that are clear and fair. In practically every case, revenues derived from the routes proposed for discontinuance have failed to cover the variable costs of providing the service.

Question 4. Why do you consider uniformity of State regulations to be so important?

Answer. Huge amounts of time and money are spent annually by bus operators in attempting to comply with a maze of conflicting State laws and regulations. In many cases, the cost of the paperwork exceeds any monetary or regulatory benefit derived by the States. Tourism is the third largest industry in the United States. The industry is heavily dependent upon charter and tour bus operations, especially during times when fuel supplies are short. An industry of such importance should not be handicapped by antiquated laws and regulations which inhibit interstate bus mobility.

One of the most important issues before the Congress is how to achieve State regulation which is uniform among the States and consistent with Federal laws and regulations. A joint ICC–DOT study conducted pursuant to section 19 of the Motor Carrier Act of 1980 recommended that State authority over licensing, fuel tax collection, insurance and other filing requirements, and trip permits be preempted to the extent necessary to enable buses to move as freely in interstate commerce as the private automobile. To accomplish that objective, the joint DOT–ICC study recommended the following five-point program:

(a) The registration of interstate vehicles, interstate fuel use reporting and third structure tax collection would be performed only by a base state. States would be prohibited from collecting fees directly from out-of-state carriers, except for fuel tax at the pump.

(b) Uniform schedules, forms, renewal dates and indicia fees would be used, although states would establish their own tax rates. Revenue would be equitably distributed among the states.

(c) Add-on taxes and fees, such as privilege or other use taxes would not be charged nonhome-based carriers traveling interstate.

(d) Vehicle registration and tax forms would be filed with a single state unit.

(e) A mechanism for reconciliation would be established in the event that states interpret the standards differently.

ABA urges adoption of the DOT–ICC study proposals with such safeguards as may be necessary to prevent undue erosion of State revenues. In addition, the Congress should establish standards for commercial vehicle inspection so that a State inspection conducted in accordance with Federal standards would be respected by all other States.

Question 5. During your testimony, you mentioned that you received complaints from carriers who have not been able to get into Canada to provide service there.

I would appreciate receiving any specific examples of these complaints that you could provide for the record.

Answer. At the outset, it should be understood that most bus operations between the United States and Canada are conducted fairly and to the mutual benefit of the two countries and to the carriers and passengers involved. The bulk of the traffic consists of charter and tour operations by United States carriers which begin and end at points in the United States and extend to points in Canada and charter and tour operations by Canadian carriers which begin and end at points in Canada and extend to points in the United States.

Under the liberalized entry provisions of the Bus Act, Canadian carriers have been applying for operating authority between points in the United States when comparable authority would not be granted to United States carriers in Canada. For example, in ICC Docket No. MC–169015, the Canadian National Railway Co. has applied for authority to transport passengers in charter and special operations which begin and end at points in the United States. Although Canadian carriers are not similarly restricted, the Province of Quebec will not authorize a United States carrier to transport passengers whose trips originate or terminate in that province. The legal opinion of a Montreal law firm and excerpts from the applicable law and regulations are attached to my prepared testimony before the Committee.

Subsequent to the hearing, ABA was advised that a company in Montreal operating under the name "Connaisseur" has instituted service from Montreal to the Burlington, Vermont airport and return. Vermont Transit Co., Inc., an ABA member, would like to transport passengers from the Burlington Airport to Montreal but has been advised by counsel that the required operating authority will not be granted by Quebec.

Cascade Trailways and other carriers in the State of Washington have been concerned about the applications of carriers domiciled in British Columbia which seek authority to pick up charter groups in Washington or Oregon and transport them to Reno or Las Vegas. Cascade Trailways does not believe that comparable authority would be granted by British Columbia. Under Canadian law, carriers must deal with ten provinces and two territories and, as noted above, Quebec will not grant authority to foreign carriers who seek to originate or terminate passenger traffic in that province.

Senator DANFORTH. Thank you very much.

Next, Mr. William McCracken, senior vice president, Greyhound Lines.

STATEMENT OF WILLIAM McCRACKEN, SENIOR VICE PRESIDENT, GREYHOUND LINES

Mr. McCRACKEN. Thank you, Mr. Chairman. I would like to offer several comments from our perspective on the first year of the Bus Act.

First, I would say that our impression has been that the ICC is to be commended for fair and rapid implementation of the act. It is not the ICC's fault, nor any carrier's fault, that there has been a great deal of misinformation about what has occurred.

Let us treat discontinuances first. I do not think anyone who is familiar with what the bus companies were doing and the manner in which they were being regulated is surprised at the number of discontinuances which have occurred since last November. But bear this in mind. You hear various numbers. In Greyhound's case we spelled it out explicitly: 1,114 points dropped from timetables.

Probably most of those have no population—cloverleafs on an interstate highway. Two-thirds of our requests, and we filed requests with 43 States to discontinue service, were approved by local authorities as being in the public interest.

Iowa is one of those States. In Iowa we discontinued several routes. I do not know the number of points. It was somewhere in the neighborhood of 30, I believe. We were averaging on those schedules less than one passenger a day. The total bus miles for Iowa discontinuances were less than 1 percent of our operations in that State.

This is true across the country. There has been a great deal of furor in the State of California that Greyhound was engaging in massive abandonments. That revenue from the services that we want to discontinue in California amounts to 0.04 of 1 percent of our California revenues.

This goes on across the States. As I said, we filed in 43 States. In only one State did anyone come forward and offer financial assistance, although money is available in virtually every State. That was the State of New York, which has had a program for several decades of assisting rural service for intercity bus.

I think this shows that the services that were discontinued were unused. No one was riding them, or one person a day was riding the schedule. Carriers were not discontinuing the services, people were discontinuing the services.

The suggestion that the discontinuances that have been filed this year are the first of a number of waves of discontinuances is in Greyhound's case false. We decided to modernize, to rationalize our new route network all at once. We did not want to prolong the agony. We know it is agonizing to discontinue service. The publicity is not good, even though no one is using the service.

With respect to discontinuances, we are aware of S. 1916 which Senator Percy put forward for the State of Illinois Commerce Commission, the so-called Prior Notice Amendment. We do not think that is going to solve anything. In fact, if you look closely at that bill it virtually guts the Bus Act.

It would transfer jurisdiction over exit back to the States in totality. I think we all know what type of regulation that was prior to last November. That is bad news.

The good news is that most States have complied very fairly and implemented the law very fairly, Illinois among them. Only a handful of States have tried to frustrate the act, ignore the act, and in several cases penalized carriers for exercising rights under the act.

With respect to entry, over 2,000 applications were filed with the ICC, over half by people that did not perform interstate service in the past. We think that is very positive. On the other hand, contrary to what Mr. Sherlock suggests, there is not automatic entry, at least in Greyhound's case. Every application that could be protested by another major carrier was protested when Greyhound filed it.

Ten months and hundreds upon hundreds of thousands of dollars later, we do not have a decision from the ICC. So the act can be used to frustrate entry. The act can be used to preclude carriers from providing new and replacement service.

In the real world, small carriers are not concerned about Greyhound—200 regular route applications have been filed, 13 by Greyhound, the remainder by everybody from small to large carriers. A large number of those are over Greyhound routes, and in the real world carriers are not concerned about competing with Greyhound.

With respect to the issue of safety, which has come up today, we support your bill, Senator. We believe there needs to be more safety enforcement. There needs to be more uniformity among the States in their safety enforcement.

That would conclude my remarks.

Senator DANFORTH. Do you think that the Bus Act has put Greyhound in a stronger competitive position relative to other bus companies or a weaker competitive position or about the same as was the case prior to the Bus Act?

Mr. MCCRACKEN. I think in the entry area we applied for a modest amount of new routes, several thousand miles of new routes. We do not have them. By contrast, the Trailways System applied for about 17,000 miles, much of it over Greyhound, and they have those today. On the entry side we have been frustrated. They have been allowed to maintain their monopoly routes, we have not.

There are other aspects of the bill which I think have been helpful. I think the preemption of intrastate jurisdiction over rates has allowed us to better price our products.

Senator DANFORTH. What I'm talking about is competitive advantage relative to other bus companies. We just heard it from the last witness that Greyhound is large. It is so large that it is not comparable to any other situation in the transportation industry. It is the dominant force in the industry.

When you have a change in regulation, a move to deregulation, it may affect one way or another the competitive position of the bus industry and of the dominant company within the industry. Do you think that subsequent to the Bus Act Greyhound is in a stronger competitive position relative to its competitors, or do you think it's a more competitive industry than it was?

Mr. MCCRACKEN. It is a substantially more competitive industry. I do not know what the support is for the dominance claim. We are now 27 percent smaller than the Trailways system. They have expanded, we have not.

Senator DANFORTH. Last year Grehound lost $16 million?

Mr. MCCRACKEN. From operations, yes, sir, if you exclude the gain from the sale of assets and investment tax credits, we are not in the business of gaining on the sale of assets. So if you just look at the fare box, an operating loss, yes, sir.

Senator DANFORTH. What was the reason for that?

Mr. MCCRACKEN. A number of factors coming together at the same time, none of which are attributable to the Bus Act: the economy, travel in the industry has been down, we may not have been quick enough to try to reduce our expenses.

Airline competition has been devastating in many areas. The low-cost airline operators have come in and in many cases have put fares in that are 20, 30, 50 percent less than the bus fare. The New

York area to Norfolk, Va., with the Navy base, used to be a major market for the bus industry. Now it has virtually dried up because of People Express. This has occurred in a number of areas.

I think those are the two prime factors.

Senator DANFORTH. How do you look to the future?

Mr. MCCRACKEN. Optimistically. We think, as we have said all along, that anything would be better than the type of regulation we were experiencing in the late 1970's at the ICC and in the States. Knowing that Congress was not going to roll regulation back to the type we had experienced in the fifties and sixties, the second most desirable choice was deregulation.

We think as all the adjustments are made to the new environment, we think it will be good for the bus industry, good for Greyhound.

Senator DANFORTH. Your view is that safety fitness is not stringently enough enforced right now?

Mr. MCCRACKEN. I would have to say it is spotty, because much of the enforcement is at the State level, and the degree to which the States implement the safety regulations varies. We think more Federal presence, more Federal funds, and some federally dictated uniformity among the States would be important.

It is not to suggest that we think there is any major safety problem in the industry. But I think when you are dealing with people you have to insure that we have the highest standard of safety that individual people can achieve.

Senator DANFORTH. Thank you very much.

Mr. MCCRACKEN. Thank you.

[The statement follows:]

STATEMENT OF WILLIAM L. MCCRACKEN, SENIOR VICE PRESIDENT AND ASSISTANT TO THE CHAIRMAN OF THE BOARD, GREYHOUND LINES, INC.

Mr. Chairman and members of the Committee: I am William L. McCracken, Senior Vice President and Assistant to the Chairman of the Board of Greyhound Lines, Inc.

We appreciate this opportunity to present our views on the first eleven months of intercity bus deregulation under the Bus Regulatory Reform Act of 1982 (Bus Act).

INTRODUCTION

In essence this is the first report card reflecting the actions and attitudes of the various entities that are part of the bus industry or which regulate the industry. The Interstate Commerce Commission, the majority of the state regulatory agencies, and most bus companies have earned honors for accepting and implementing deregulation in the spirit envisioned by Congress. On the other hand several carriers and one association of carriers have engaged in a protracted and costly effort to resurrect at the ICC the anti-Greyhound two-tier approach to regulation that Congress specifically rejected. One carrier has also asked the ICC to rewrite the Bus Act to deprive Greyhound of pricing freedom and to deny Greyhound the right of independent action guaranteed by the Bus Act. Their report card should reflect failure. Several state regulatory agencies receive the same failing grade because of their refusal to recognize the existence of the Bus Act or their deliberate efforts to frustrate the intent of Congress.

This oversight hearing provides a welcome opportunity to report on the events which have transpired since the Bus Act became effective on November 19, 1982; the changes which have occurred within the bus industry and the services it provides; and the problems which are apparent in the implementation of deregulation as envisioned by Congress.

We view oversight as an opportunity to eliminate misconceptions and more importantly to correct the misinformation disseminated in recent months concerning the implementation and impact of the Bus Act.

Additionally, we have included a critique of the S. 1916 and H.R. 4067, identical bills introduced October 3, 1983, entitled "Bus Regulatory Reform Act Amendments of 1983." These amendments represent an effort to repeal major provisions of the Bus Act which liberalized regulation of entry, exit, and service changes. These bills would additionally emasculate critical portions of the preemptive language of the Bus Act, thus allowing state regulators to reimpose arbitrary and unreasonable regulation.

Lastly, we believe events of the past year confirm the expectations of Congress—namely that deregulation will benefit consumers and carriers alike. The remaining regulatory schemes serve no useful public purpose. We support the end of federal and state economic regulation of the intercity bus industry.

THE BUS REGULATORY REFORM ACT OF 1982

Although the Bus Act is barely 11 months old we can already conclude that the baby is healthy and prospering. Of course like any infant it has some growing pains but these are to be expected in the finest of children. What is clear is that everything is going according to plan. The unexpected has not occurred and the prophets of gloom and doom have been shown to be wrong again.

Before analyzing the events of the past 11 months it is useful to reflect on the reasons the Bus Act came into being.

In the late 1970's regulation as we had known it for 40 years was changing. This caused many to reevaluate their positions on regulation.

In 1978 Greyhound engaged in an exhaustive review of the state of regulation, its impact on the company, and most importantly its impact on our ability to deliver a quality product at a fair price, to meet the needs of our customers, and to compete with the other modes providing intercity passenger service.

The inescapable conclusion was that absent a return to the meaningful regulation practiced as late as the 1960's, the complete elimination of all economic regulation, federal and state, was the answer. In summary we were led to this conclusion by the following factors:

1. Entry barriers especially at the ICC, had been removed, but restraints on exit and rates remained pervasive and rigid.
2. Rate regulation at the ICC was starving the industry of needed funds.
3. Rate regulation at the state level resulted in severely depressed intrastate fares and a resultant need for interstate customers to pay inflated fares.
4. State regulation of service forced us to operate routes and schedules for which there was no public demand or need.
5. Our competitors were deregulated while we faced the marketplace like a fighter entering the ring with one, often both, hands tied behind his back.

The latter is particularly critical factor that is frequently overlooked. Federal policy and billions in user fees, including those paid by bus companies, built an Interstate Highway system which revolutionized intercity travel. Everyone could now use their auto for intercity travel and the bus share of the market fell from 4 percent in 1952 to 1.7 percent in 1982. And more immediately the deregulated airlines aggressively went after bus passenger with prices they openly promoted as "cheaper than bus" and rather explicitly advertised to divert bus passengers.

And where was the bus in the face of the changing competitive environment? We still had to frequently route our schedules over the "old road" and when we did use the Interstate Highways it was pursuant to what the ICC called Deviation Rules. The mere title "Deviation Rules" capsulizes the misdirection regulation followed. While the Interstate Highways became the mainstream of intercity travel, buses were only allowed to "deviate" onto them, thus perpetuating the idea that the basic service would be on the "old road." And once we "deviated" onto the Interstate Highway we couldn't serve intermediate points. Thus our route systems often were a creature of 1940 travel needs not the 1970's and 1980's.

No business can stand still and ignore population growth and shifts, new methods of delivering service, or the other myriad of changes our society has undergone since World War II, unless it wants to stagnate and inevitably decline. And this is exactly what was occurring to much of the bus industry.

I have emphasized this point because the private auto, with 84 percent of the intercity market, is our principal competitor. If you have any doubt, reflect upon Greyhound's use for over three decades of its advertising slogan "And leave the driving to us."

And in 1971 we were introduced to a new competitor called "Amtrak," that has been able to divert bus riders by charging the passenger only a small percentage of the cost of service. With Amtrak receiving over $5 billion in federal subsidies the U.S. taxpayer is paying an average of $35.00 for each Amtrak passenger.

The onset of airline deregulation compounded the competitive disadvantages visited upon the bus industry by government policy. While we had known since the 1960's that there were areas where we and the airlines competed, airline deregulation resulted in the eager pursuit of bus passengers by a number of fledgling as well as established airlines. The low cost airlines like People Express and Southwest undercut bus fares and advertised that fact. Our traffic statistics show that they were successful.

But while this was occurring regulation severely hampered our ability to react competitively, we were saddled with the expenses of unprofitable and unneeded services. We couldn't reroute service to use the fastest routes. We couldn't eliminate those numerous stops where a passenger was seldom seen but which made bus travel seem slow and antiquated to the 80 percent of our passengers who travel between urban areas. And most significantly we could not quickly react to air fares which undercut bus fares. One example should suffice. When Texas International advertised "cheaper than bus" in print ads showing their plane and our bus, it took us 65 days in the State of Texas to obtain approval to lower our fares to the same level.

Against this background it shouldn't be surprising that the bus industry supported deregulation in the form of the Bus Act.

The early months of deregulation have seen substantial activity in all of the major areas of bus service impacted by the Bus Act.

An analysis logically breaks down into Entry, Exit, Pricing, and State Regulation.

In addressing activity in the first two areas we have also noted instances of misinformation which detracts from an accurate understanding of the events of the past eleven months.

ENTRY

The most interesting aspect of entry has been the astonishing number of applications filed with the ICC for operating authority. Thru October 10, 1983, there have been 1931 applications. Of these 1706 are for charter and special operations authority, and with rare exceptions are nationwide in scope. And of these 942 or 55 percent are by persons or companies which did not previously hold ICC authority.

"During the same period 225 applications were filed for regular-route authority. These applications represent collectively 46,686 miles of new routes. To place this in perspective, all ICC regular-route carriers had 272,000 miles of routes in 1981. Thus, in less than one year existing and new carriers have sought authority to expand the regular-route network by 17 percent."

Appendix A[1] to my statement is an analysis Greyhound has prepared on a recurring basis of all regular-route applications, including their geographical scope and estimated route mileage. This analysis reflects that Trailways Inc., has been by far the most aggressive in seeking new route authority and restriction removal. Between November 19, 1982 and October 13, 1983, Trailways, Inc., has sought 9,351 miles of new routes and the Trailways system has sought a total of 17,238 miles. This compares to Greyhound's 5,327 miles. At the beginning of the period, the Trailways route network was 110,000 miles, while Greyhound's was 94,000 miles. Without considering discontinuances, Greyhound's route network shrank from 85 percent of Trailway's to 78 percent.

While Greyhound did not protest a single application of any carrier including Trailways Inc., the latter carrier protested every Greyhound route request it had any standing to protest.

The result has been that while Trailways is operating the authority it sought, Greyhound is still involved in costly proceedings before the ICC to obtain significant portions of the new routes for which it has sought authority.

What the record does convincingly show is that Trailways is intent upon foreclosing competition. It seeks to preclude competition with Greyhound by protesting every Greyhound application it has any standing to protest and by seeking a two-tier entry policy which would apply tougher entry tests for Greyhound applications than for those of all others including Trailways.

Trailways additionally forecloses competition from independent Trailways carriers through a recently enacted amendment to the by-laws of NTBS which limits the ability of one Trailways carrier to compete with another.

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[1] The appendices referred to have been retained in the committee files.

In point of fact, it is Trailways itself which has been the most aggressive in seeking, and obtaining, new route authority, and Greyhound certainly takes no issue with that. We have not protested one application.

The regular-route applications of all carriers are reflected in Appendices B, C and D (a limited number of these maps are available and are provided for the Committee's review).

Although some have suggested for their own self-serving reasons that only Greyhound is expanding its route network and that these requests are "massive" in-scope, the unblemished record reflects an entirely different situation. Healthy competition is occurring; route structures are being adapted to the 1980's, and many new carriers are entering the bus industry.

EXIT

Discontinuances of service on routes and at points is probably the most misunderstood aspect of deregulation. This has been compounded by efforts to purposely mischaracterize the activities of carriers, particularly Greyhound.

It has been said that Greyhound is abandoning 1,300 communities. That is false. Requests were made in 42 states. Twenty-nine state regulatory agencies approved these requests as being in the public interest. In 13 states the decisions of the local regulatory authority were partially or totally unsatisfactory to Greyhound. In 12 we subsequently appealed to the ICC. In the six proceedings where the ICC has ruled on the merits it has granted Greyhound's request to discontinue service. At the present time, approximately 75 percent of the timetable deletions have been authorized. The status of Greyhound's discontinuance requests state-by-state is shown in the following table:

STATUS OF GREYHOUND DISCONTINUANCE REQUESTS

	Approved at State level	Denied at State level	Appealed to ICC	Granted by ICC
Alabama	X			
Alaska	No operations			
Arizona	Deregulated			
Arkansas	None filed			
California		Dismissed	X	
Colorado	X			
Connecticut	X			
Delaware	X			
Florida	Deregulated			
Georgia	Pending State decision			
Idaho	X			
Illinois	X			
Indiana	X			
Iowa	X			
Kansas		X	X	X
Kentucky	X			
Louisiana		X	X	X
Maine	X			
Maryland	X			
Massachusetts	X			
Michigan	X			
Minnesota		X	X	
Mississippi	X			
Missouri	X			
Montana	X			
Nebraska		X	X	X
Nevada	X			
New Hampshire	X			
New Jersey	No intrastate operations			
New Mexico	X			
New York	X			
North Carolina	X			
North Dakota	X			
Ohio	X			
Oklahoma		X	X	X
Oregon		X	X	X

STATUS OF GREYHOUND DISCONTINUANCE REQUESTS—Continued

	Approved at State level	Denied at State level	Appealed to ICC	Granted by ICC
Pennsylvania		X	X	
Rhode Island	X			
South Carolina	X			
South Dakota	X			
Tennessee		X	X	
Texas		X	X	
Utah	X			
Vermont	None filed			
Virginia	X			
Washington		X	X	
West Virginia		X	X	X
Wisconsin	Deregulated			
Wyoming		X		

It has also been said that Greyhound acted irresponsibly in seeking approval to discontinue unprofitable service. That too is false.

With the advent of the Bus Act, Greyhound proceeded expeditiously to modernize its route network. This included service additions as well as service discontinuances. With respect to the latter, Greyhound made appropriate applications and filings with each of the states that continue to regulate service. Our understanding is that many other carriers followed a similar plan and have discontinued unprofitable service. At the same time, carriers are stepping in to replace services discontinued by other carriers.

An example is Julesburg, Colorado, a town abandoned by Trailways (Appendix E). Subsequently Greyhound inaugurated twice daily service to Julesburg.

With respect to discontinuances several critical facts require emphasis.

First, no discontinuance can occur unless the state regulatory agency or the ICC determines it to be in the public interest. The Bus Act does not give carriers the unilateral power to discontinue service, although we understand Trailways abandoned Youngstown, Ohio and its route between Toledo and Ft. Wayne without state approval (Appendix F).

Second, at least as far as Greyhound is concerned, a proposal to discontinue is pursued only after analysis of the service and only in those cases where the losses are substantial and demonstrable.

Third, in most instances a point where service is proposed to be discontinued will continue to have service from another carrier or alternative Greyhound service within a few miles.

Fourth, in the case of Greyhound we filed our discontinuance proposals in each of the states at approximately the same time.

Fifth, in the case of Greyhound, and contrary to the assertions of some, the discontinuance proposals are not the first of several "waves." Greyhound's pending and accomplished proposals represent the discontinuances considered necessary to modernize our route structure. Any further discontinuance proposals would be the result of competition and market influences.

Lastly, the services proposed to be discontinued were the abysmal losers, the routes and schedules that were operated only because a regulator required their continuance (Appendix G).

The following are some examples of the 1982 operating results proposed to be discontinued:

State	Revenue	Variable cost	Loss
Alabama	$170,645	$844,873	$(674,228)
Georgia	148,416	1,937,646	(1,789,230)
Illinois	47,547	230,128	(182,554)
Indiana	56,550	391,230	(334,680)
Iowa	24,867	224,257	(199,390)
Kentucky	181,956	823,886	(641,930)
Louisiana	68,760	415,837	(347,077)
Nebraska	1,880	49,243	(47,363)
North Carolina	82,543	339,902	(256,759)

State	Revenue	Variable cost	Loss
Tennessee	410,180	1,496,985	(1,086,805)
Virginia	12,179	86,754	(74,575)

If fully allocated costs were used in lieu of variable costs the losses reflected above would approximatley double.

That discontinuance of bus service would occur under the Bus Act can surprise no one. The actions of state regulators in requiring the continuation of service operating at grotesque losses (revenue frequently less than 10 percent of the cost of the service) was well known. Repeated references are found in the testimony of industry and government witnesses before Committees of both Houses. The reports of both Houses on the Bus Act provide extensive and graphic evidence of the horrendous conditions imposed on bus operators by state regulators. Congress clearly intended that carriers be able to discontinue services for which there is no discernible public need.

The most startling aspect of criticism from one carrier and one association of carriers (principally tour and charter operators) of Greyhound for discontinuing service, is that each supported the discontinuance language in the Bus Act and, in fact, the President of the association prophesized exactly what has occurred and that in his opinion it should occur.

". . . discriminatory and arbitrary state regulation has devastated regular route bus service. States have forced bus operators to maintain financially unsound routes and schedules."

"The bus industry is losing millions of dollars each year from unprofitable operations that cannot be discontinued (because of state regulation). These losses are an economic drain on the carriers . . .

"The public interest, as distinguished from the parochial interest of a handful of passengers, is not served by requiring carriers to continue hopelessly unprofitable regular route service."

Norman Sherlock. President, American Bus Association, Senate Surface Transportation Subcommittee, March 8, 1983. pp. 124, 139.

Misinformation of the type described is unfortunate because once published or broadcast it develops a life of its own. The correction or the effort to set the record straight never seems to catch up with the erroneous statement. This is because the media rarely provides equal access to correct the error and the proponent of a viewpoint is loath to discontinue the use of ammunition for his or her cause. Thus misinformation becomes part of the folklore of the issue. The type of misinformation we have described not only misleads people but it also casts the bus industry in an unfavorable light, something we would assume an industry association would be loath to do.

These observations are particularly pertinent in any evaluation of the impacts of bus deregulation. Much misinformation has resulted from (1) incomplete media research, (2) misunderstanding, (3) advocacy which colors perspective, and (4) carriers pursuing self-serving goals.

Examples of the fourth are described in proceeding pages. Examples of the first three are found in a *Wall Street Journal* article of August 2, 1982, which contained numerous inaccuracies, and the subsequent use of that misinformaton by a committee opponent of all forms of transportation deregulation (Appendix H and I).

Other examples include:

A press release by the Missouri Public Service Commission advising that Greyhound was proposing to discontinue a route when in fact it wasn't.

Statements to the media by a senior executive of the California PUC that Greyhound's discontinuance request was the first of many, which was untrue, and that Greyhound would abandon 40 percent of its routes, when 1 percent is more accurate.

STATE REGULATION

State regulatory actions have generally been consistent with the intent and spirit of the Bus Act. The large majority of state regulators are to be commended for their fair and impartial compliance with the Bus Act, even though some of them in all probability are philosophically opposed to deregulation. Others of course are totally in agreement with the need to end economic regulation of the bus industry and have been supportive of the Bus Act and deregulation legislation in their respective states.

Unfortunately, a few state regulatory agencies have either refused to acknowledge the existence of the Bus Act or have engaged in punitive and procedural tactics designed to deny or delay carrier achievement of the freedoms contained in the Bus Act. While this attitude is confined to only a few states, the impact on carriers is substantial because it includes several large states which account for substantial bus operations.

A few examples suffice to show the problems carriers are confronted with.

Texas: Greyhound sought authority to discontinue one backroad route and 46 off-route points, the majority of which generate no revenue. Both on the record and by news release the Texas Railroad Commission has said it is considering revocation of Greyhound's statewide charter and package express authority because it chose to seek approval to discontinue a minute portion of its regular route operations.

Georgia: Greyhound's otherwise justified rate increase application was denied because Greyhound has exercised its statutory rights under the Bus Act to reduce and discontinue service (Appendix J).

Missouri has promulgated rules with respect to rate increases which require carriers to provide voluminous data, far more than was required before the bus Act circumscribed the state agencies ratemaking role. Missouri additionally has sought to extend to 150 days from 120 days the period the Bus Act gives the states to act on rate increases.

California provides a classic case study of regulators reaching a decision before the facts are developed and then refusing to change their decision when the facts show the decision is wrong.

In January 1983 Greyhound sought California PUC approval to discontinue service on several minor routes and at 97 (originally 99) points, representing less than four-tenths of 1 percent of statewide revenue.

After Greyhound's application was filed, but before the evidentiary phase, the PUC undertook a wide ranging media campaign which grossly misrepresented both the application and Greyhound's future service plans in California. Commission representatives repeatedly led the public and public officials to believe that Greyhound was engaged in massive service reductions when in fact the reductions were miniscule and service for many would be improved.

The clear result of these efforts was to unduly concern the public; to inflame opinion against deregulation; and to create an atmosphere in which Greyhound could not receive a fair and impartial hearing before the PUC.

The PUC media campaign surfaced first, to our knowledge, on January 5, 1983, when the PUC staff was quoted in the San Francisco Examiner in part as follows:

"Greyhound Bus Lines stands to collect 'a real windfall' in profits while 73 California communities will lose bus service and another 344 will have service reduced," says the staff of the State Public Utilities Commission.

" 'It's grim, and the people being hurt are the people who can least afford to deal with it,' said Victor Weisser, PUC Director of Transportation."

In the same article PUC staffer Ralph Douglas was quoted as saying that Greyhound lost money on 88 percent of its California routes and that Greyhound "is attempting to drop the money losers." This of course creates the clear impression for the reader that Greyhound has embarked upon discontinuing 88 percent of its routes. The use of buzz words like "windfall" clearly are designed to prejudge Greyhound's request even before the evidentiary stage.

On the same date the San Jose Mercury quoted a PUC executive as saying "the PUC vehemently opposes the move that completely halts service in some area." It is interesting to note that this occurred before the PUC received any evidence from Greyhound.

In the same San Jose Mercury the PUC was quoted as saying that "half the communities that Greyhound proposes to abandon will be left without any transportation service." This is false. California DOT studies show that a substantial number of the points would continue to have intercity bus service.

Again in the San Jose Mercury PUC staff was quoted as saying that he "estimated that California would lose 38 percent of its intercity Greyhound bus service if the company follows through on its announced plan." The massive nature of that projection on its face is apparent. It was false and the PUC Staff was so advised. One percent was closer to the truth.

On January 13, 1983 PUC staff was quoted in the Bakersfield Californian as saying that the Greyhound abandonment application was "just the tip of the iceberg." Obviously he intended to convey a clear signal to the public that there would be many more Greyhound abandonment applications in the future.

The January 13, 1983 San Francisco Chronicle reads:

"He (Weisser) predicted the 91 route California cutback proposal 'is just Greyhound's first shot, getting rid of the obvious losers. I am convinced we'll see one third of California's bus service go down the tubes, affecting every county,' Weisser said adding that he based his forecast on a two year Caltrans study that predicted 38 percent of the state's bus service might be lost under deregulation."

The Modesto Bee of January 8 quoted the PUC to the effect that persons in small communities depending on bus service could "kiss it off, it's not going to be there."

And in the January 8 San Jose Mercury, the PUC after expressing their views on Greyhound's application said that he believes there will be more cutbacks. In particular "I have every expectation they will follow up with abandonments that will affect other, larger areas of the state."

None of these predictions was based on any information provided by Greyhound, nor was any request directed to Greyhound to determine it plans.

And even after Greyhound personally advised the President of the PUC and PUC staff that it was not the "first wave," but the totality of Greyhound's intentions, the PUC continued to make the same prophesies.

Although this was bad enough, the PUC proceeded to "dismiss" Greyhound's application without ever addressing the merits. Greyhound has appealed that decision to the ICC, which as of October 19, 1983, has not acted.

Thus 10 months after filing a discontinuance request Greyhound has yet to receive a decision on the merits. If California receives ICC approval to dispose of applications by dismissal, it will be impossible for carriers to obtain decisions on the merits.

PRICING

The Bus Act contains several provisions relaxing federal and state regulation of rates and fares.

Those provisions designed to allow carriers to establish compensatory intrastate fares have been utilized by many carriers. Many states have cooperated in this endeavor to eventually bring intrastate fares to the interstate level. When states have ignored the Bus Act, appeals to the ICC have universally met with success when the decision is on the merits of the increase.

The Bus Act allows a carrier to lower intrastate fares without regulatory review or even the filing of a tariff. Greyhound has found this freedom useful. It allows instantaneous reactions to market and competitive conditions.

On an interstate basis Greyhound was the first carrier, in December 1982, to make a Zone of Rate Freedom (ZORF) filing. A few carriers followed suit but the percentage limits in the first year are limited. Substantial use of ZORF should follow in subsequent years as the ZORF percentages increase and then are totally eliminated.

The atmosphere created by the Bus Act has resulted in innovation and flexibility in pricing never seen before in the industry. Greyhound has looked upon deregulation as an opportunity to experiment and innovate and to establish new organizational formats for pricing decisions. The programs we have initiated have generally produced positive results.

As an example we have established what we call "two-tier" pricing on numerous routes. This can take several forms—Fare differentials for express and local service; time of day pricing; and reductions limited to selected schedules.

Price competition within the intercity bus industry has been intense for several years but in the past year its intensity has grown. Two phenomena are apparent.

First, pricing freedom has not been accompanied by an equal amount of maturity as evidenced by the deep discount pricing program of Trailways. The pricing policy followed by that carrier has been a significant contributor to the poor financial performance of the bus industry in 1982 and 1983.

Second, Greyhound has experienced a situation where Trailways has sought regulatory intervention to force Greyhound to adopt Trailways' pricing policy; to deny Greyhound its statutory right to independent action; and to force Greyhound to price its service at unprofitable levels.

With respect to price discounting the often irrational deep discounting seen in the air wars has been repeated in the bus industry. These price cuts, principally Trailways initiated, are too deep, but nonetheless Greyhound has felt compelled to meet. If you reflect on the rules of successful discount pricing, you can see that these rules are being ignored by those initiating the fare cuts.

First, discount pricing should increase revenue. But the carrier reports filed with the ICC show this isn't happening.

Second, discount pricing should attract new customers and more trips by existing customers. This isn't happening either.

And lastly, discount pricing should increase profitability. This too, has not occurred.

We are seeing in the bus industry a major difference in pricing philosophies. Trailways has what we believe to be the mistaken conviction that short-haul fares should be increased and long haul fares decreased to compete with the airlines. Greyhound believes a contrary marketing approach is the only viable one. The bus industry must encourage, not discourage, short-haul travel (up to 500 miles) where the bus has advantages. Greyhound does not believe that bus can compete cost wise on long-haul trips with airlines. People will travel by bus for long trips, but for reasons other than price. Reducing long-haul prices, even if it produces additional traffic, will not result in profits. Greyhound does, however, believe in reasonable, well thought out discount programs. Greyhound's position in this regard is contained in a recent position paper presented at a bus industry rate meeting (Appendix K).

The second phenomenon is the recent attempt by Trailways to obtain an order from the ICC giving it the unilateral power to force Greyhound to carry passengers at lower than otherwise agreed upon reasonable joint fares and thereby reduce Greyhound's revenues. In the hands of Trailways and other low cost carriers, such power would be a weapon that would either prevent Greyhound from matching Trailways' discounted fares or force Greyhound to carry full fare passengers at discount rates at the option of its competitors, decimating its revenues and, because of its higher costs, injuring it severely.

If Trailways were awarded the requested relief the inevitable effect would be to force Greyhound to offer to Trailways the opportunity to join any promotion that Greyhound develops for its single-line rates.

A truly competitive system could not develop under Trailways' theory because Trailways would enjoy, in effect, control over Greyhound's promotions. Trailways would be able to joint any Greyhound promotion it chose. Similarly, if Trailways offered a discount promotion which Greyhound decided it had to match, Tralways could force Greyhound into joining the promotion on Trailways' terms. This would tend to lock the two carriers into the same discount fare structure and to discourage competition in fares. Moreover, Greyhound would have little, if any, incentive to offer new promotions if it knew that every time it expended the time, effort and money to develop, promote, and advertise a promotional fare it would have to share the promotions with its chief bus competitor. This elimination of price competition which would result from Trailways' scheme would be detrimental to the public interest and directly contrary to the spirit and terms of the Bus Act.

Trailways' requested relief would not only impair price competition between the two carriers, it would also give Trailways unilateral power to impose lower revenues on Greyhound. For example, Greyhound filed its own $99/$150 discount fare tariffs subsequent to Trailways' filings in order to preserve Greyhound's competitive posture and goodwill and to offer to the public a distinct alternative to Trailways' promotions. If Trailways were able to force Greyhound to join its tariffs on Trailways' terms, the two carriers' promotions would be indistinguishable to the public and Greyhound's attempt to attract new customers through its own discount promotions would be frustrated. On the one hand, it would force Greyhound to share with Trailways the fruits of its efforts to develop new promotions. On the other, as a coerced party to Trailways' tariffs, Greyhound would be required to charge the discount fares to any passenger to whom Trailways sold tickets, and would be forced to extend these reduced rates beyond the operation of its own tariff. Because these reduced fares would not be compensated for by increased ridership, Greyhound would lose revenues. As Greyhound has relatively higher operating costs, coerced extension of discounts would, at the least, be relatively more harmful to it than to Trailways.

Basically, Trailways seeks to deprive Greyhound of its right to determine when, where, and to whom it will offer discount promotions adopted by Greyhound. But Greyhound can hope to maintain its competitive posture vis-a-vis Trailways' discount promotions only if it is permitted this freedom. Otherwise, by forcing Greyhound to interline at the discount fare, Trailways could superimpose on Greyhound's entire system a fare that Trailways has determined to be economical for Trailways based on its particular economic and business situation. Because Trailways' operating costs are lower than Greyhound's, the same discount fare would not necessarily be economical for Greyhound if imposed on Greyhound's system and would impose revenue losses on Greyhound and would place it at a competitive disadvantage.

This effect would also jeopardize the continuation of service to many small communities. Even at standard fares, revenues barely sustain Greyhound service to many of the small communities that other carriers do not currently serve. If Trailways could force Greyhound to charge uneconomical joint discount fares for travel to these communities the resulting unreasonable dilution of Greyhound's revenues might ultimately lead Greyhound to terminate service to such locations. Thus Trailways' scheme would harm rather than benefit small communities.

Greyhound believes in and is in favor of well-thought out discount programs. As it explained in Appendix K a successful discount program should attract new passengers and encourage existing passengers to increase their travel in sufficient numbers to offset revenues lost through lower passenger mile fares and to increase total carrier revenue and profits. Where airlines have achieved these goals, it has been because they have been able to make their discounts selective enough to draw new or additional traffic and have sufficient control of the scope and distribution of their discounts through reservation mechanisms, pre-payment plans and other restrictions. Buses do not currently have such tools; demand for bus service, especially long-haul, does not appear to be so pliable as to price in the range of foreseeable discounts; and discounts are quickly matched by airlines and other carriers. Thus, in Greyhound's judgment, many discount programs, including those promoted by Trailways, have frequently produced undesirably low fares, failed to attract new business and lowered rather than raised carrier revenues.

Greyhound has initiated discount programs only where they appear designed to overcome the many obstacles to success and are reasonably expected to increase revenues. Greyhound has also sought to meet a number of the discount programs of Trailways in order to maintain its reputation for good, economical service, but Greyhound often sees its revenues diminished by such discounts and does not wish to increase the harmful effects by unreasonable expansion of their scope. Greyhound and other carriers can only be hurt if discount fares are used without regard to the likelihood of their attracting new business and thereby become merely a less economical, less sound substitute for existing reasonable fares, including reasonable joint rates and fares. It is one thing for Trailways to pursue its own marketing strategies, it is another entirely for Trailways to enlist the ICC to assist to override the differing judgment of other carriers, including Greyhound, control competitors' prices and coerce them to share the costs of Trailways' policies. A viable bus industry requires that carriers have the free choice to limit their exposure to revenue losses from discount schemes of other carriers like Trailways, with which another carrier may disagree.

S. 1916 AND H.R. 4067—BUS REGULATORY REFORM ACT AMENDMENTS OF 1983

On October 3, 1983, Senators Percy and Dixon introduced S. 1916, and Representative Simon introduced H.R. 4067, identical bills prepared by the Illinois Commerce Commission, which would rescind much of the regulatory modernization and competitive flexibility provided by the Bus Act.

The explanatory statements accompanying S. 1916 speak almost exclusively of service reductions and discontinuances and in that regard S. 1916 would substantially dilute the realistic provisions of the Bus Act (references to S. 1916 apply equally to H.R. 4067 since the bills are identical). But S. 1916 goes further. It would critically restrict the relaxed entry standards of the Bus Act. In fact the proposal clearly envisions state regulatory veto power over ICC entry decisions. The proposed language would return entry regulation to the one carrier/one route, monopoly form of regulation previously practiced by many states.

S. 1916 represents a clear effort to gut major provisions of the Bus Act. It would restrict flexibility and competition. It would resurrect exactly those exit and entry standards which hampered bus growth and contributed to a continuing decline in all measures of financial performance. And lastly, it would return to state regulators exactly those powers that Congress found were being abused and exercised in an arbitrary and unreasonable manner. The regulatory philosophy which underlies the proposals in S. 1916 is the classical, but now discredited "the regulatory knows best what customers want (or is it 'should want') and how carriers should operate."

A review of the provisions of S. 1916 will show the degree to which it would substantially detract from the goals of the Bus Act as well as advancements in bus service which have occurred under the Bus Act.

S. 1916 PROVISIONS RESPECTING SERVICE DISCONTINUANCES

The provisions pertaining to service discontinuances are in two parts. First, a requirement for a new, costly, involved, and lengthy state process to be followed when a carrier desires to discontinue a route (the so-called Prior Notice Amendment). Second, a dramatic reduction in the evidentiary weight to be given the unprofitability of a route and an effort to hold the "last bus" on a route ad infinitum.

PRIOR NOTICE AMENDMENT

This amendment would require each regular route bus operator to annually file a list of routes which are under consideration for discontinuance within the following twelve months. The list would be due on March 1 of each year. This list would be provided to the ICC and each state in which the carrier operates, including those states which on their own initiative have eliminated all regulation of bus service (Florida, Alaska, Arizona, Wisconsin, Michigan, Indiana, and Maine). In addition, the states would be required to give wide publicity to carrier filings. Carriers could amend the list on the first day of any month.

Not less than 30 days after the annual filing or the date of an amendment carriers would be required to simultaneously provide each state and the ICC with the following information for each such route:

(1) Number of passengers carried in prior 12 months.

(2) Revenue for prior 12 months.

(3) Other information a Commission might specify.

Not less than 60 days, nor more than 90, thereafter a carrier could file a formal discontinuance application to the state regulatory agency.

Although the proposal may be well intentioned, it runs directly contrary to the stated purpose of the Bus Regulatory Reform Act: ". . . to reduce unnecessary and burdensome government regulation."

It would establish extensive new regulatory procedures of the exact nature which caused Congress to substantially deprive state regulatory agencies of jurisdiction in the Bus Act.

The proposal is directly contrary to the letter and spirit of the Bus Act. It would create costly and time consuming processes designed to reduce substantially the ability of carriers to eliminate unprofitable, poorly patronized routes.

The proposal is excessively "burdensome." It would require carriers to establish new and expensive internal reporting and accounting systems to retain information on a route specific basis, something only the smallest of carriers does today. It would be "burdensome" because it is certain that more current information, developed from a one-time study, would be required by the state regulatory agency at the time a specific application for discontinuance was filed. Thus, a later duplicative study would be required because the information in the annual list would be "stale, out-of-date, and incomplete."

It is "burdensome" because it requires massive studies and record keeping without an obvious public benefit or purpose. Despite a substantial reduction in regular-route bus service in the past 12-15 years (in the neighborhood of 15 percent), no state has ever followed this type of prior notice procedure. The states have clearly felt that existing regulatory procedures for evaluating service reduction proposals have been sufficient to ensure that the public is protected.

We would also be very concerned, based upon past experience with state and regional transportation planning agencies, that the information produced by carriers in this "burdensome" process would be used to justify additional subsidized public transit but not to assist private carriers.

Since only a very few states have indicated an interest in planning future intercity bus service it would be improper for the federal government to require the institution of a "burdensome" record keeping system designed for such nonexistent, unsought planning role.

Compounding the error of the proposal is the obvious fact that it would establish a totally unnecessary scheme of record keeping and regulation.

The Bus Act already encompasses a detailed, multi-step regulatory process for evaluating whether service discontinuance proposals are in the "public interest". It provides for state and ICC review and a timetable approaching one year for in-depth review of evidence and arguments. Other provisions of the Act allow for speedy entry of carriers desiring to replace a carrier discontinuing service.

The proposed annual list would add little of discernable value to Section 10935. On the other hand the negatives are numerous and substantial.

(1) It would establish an excessively burdensome record keeping requirement which would not replace the more current information regulatory authorities would require on a case-by-case basis.

(2) It would not address a felt public need or state demand.

(3) It would unnecessarily concern bus riders and communities that found their route on the list. This could result merely because carriers in the interest of caution would list more routes than they truly envision discontinuing. On the other hand, carriers might list no routes—merely amending the list at the time they actually decide to file for discontinuance. Thus, whatever benefits are seen in the "list" procedure would be substantially reduced.

(4) The list could well produce the syndrome seen recently in the airline industry where customer fear of service disruption or discontinuance causes customer desertion to other services or modes.

The parallel requirement that railroads file a system map reflecting routes being considered for abanondement is advanced as a supporting precedent. However, this ignores the major differences in bus and rail service and their respective infrastructure. Bus service, in contrast to rail service, can be instituted within hours at little capital cost and with no need for extensive facilities. While the uniqueness of rail service may justify the "map" process, there is no discernible reason for applying the same scheme to intercity bus.

Let's also look at recent real world experience.

First, those elected officials closest to citizen concerns—state legislators—continue to vote, not for regulatory relaxation as found in the Bus Act, but for the end of all economic regulation of the intercity bus industry. This year—1983—Indiana and Maine joined, Florida (1980), Alaska (1980), Arizona (1982), Wisconsin (1982), Ohio (1982—not total deregulation but more than is in the bus Act) and Michigan (1982). Even Illinois is on the verge of enacting legislation which goes far beyond the Bus Act.

Second, experience under the Bus Act shows that carriers discontinue routes because no one or nearly no one is riding the bus. Some examples from Greyhound's experience are revealing. In Iowa the routes we discontinued with the blessing of the state regulatory agency averaged less than one effected passenger per schedule. Illinois authorized the discontinuance of five routes which lost an average 94¢ for each mile operated.

Route	Revenue per mile	Variable cost per mile
B	$0.00	$1.10
C	.26	1.12
D	.49	1.14
F	.08	1.11
G	.07	1.11

Thirdly, and not surprisingly in view of the immediately preceding analysis, Greyhound has received only one subsidy proposal from local, county, region, or state suthorities in the 42 states in which it filed discontinuance requests. The near total absence of such proposals is graphic evidence of the awareness of local authorities that there is absolutely no public need or interest in the continuation of these services.

Fourth, contrary to the explanatory statement accompanying S.1916, Greyhound has not filed petitions to abandon "1,300 communities." This statement is wrong and misleading in the following particulars:

Greyhound has not filed to abandon 1,300 communities. Greyhound has requested regulatory approval to delete 1,114 points from our timetables.

The 1,114 points are frequently highway stops, highway interchanges, or other points which have no population and thus aren't communities.

The 1,114 points are generally within a few miles of a point Greyhound will continue to service or the point to be discontinued itself is serviced by another carrier.

The 1,114 points include bus stops in cities which Greyhound will continue to serve from other locations in those cities.

And of great importance is the fact that in 29 of the 42 states the state regulatory agency agreed that there was no discernible public need for the service and authorized the discontinuance. And in those appealed to the ICC, decisions on the merits have been exclusively in favor of allowing the discontinuance.

Fifth, the assertion in the explanatory statement that "proponents argued that few abandonments would occur" is contrary to the forthright statements of industry witnesses. In fact the testimony of the President of the American Bus Association clearly prophesied a large number of discontinuances, explained the reasons why it would occur, and expressed his strongly held view that it should occur.

". . . discriminatory and arbitrary state regulation has devastated regular route bus service. States have forced bus operators to maintain financially unsound routes and schedules."

"The bus industry is losing millions of dollars each year from unprofitable operations that cannot be discontinued (because of state regulation). These losses are an economic drain on the carriers . . ."

"The public interest, as distinguished from the parochial interest of a handful of passengers, it not serviced by requiring carriers to continue hopelessly unprofitable regular route service."

Norman Sherlock. President, American Bus Association, Senate Surface Transportation Subcommittee, March 8, 1983. pp. 124, 139.

Sixth, rural bus service will not come to an end as the explanatory statement predicts. The best proof is in a review of carrier service offerings today. They continue to operate thorugh and to serve rural America.

OTHER AMENDMENTS

S. 1916 would effectively recreate the arbitrary and unreasonable state regulatory treatment of carrier discontinuance requests which caused Congress to enact Section 16 of the Bus Act.

In enacting Section 16 Congress recognized that State regulators frequently required carriers to operate routes at substantial losses. While this was justified as being a carrier's responsibility because on profitable routes it was protected against competition, the relaxed entry standards of the Bus Act mean the end of this relationship. Thus Section 16 instructs the ICC to "accord great weight" to evidence of unprofitable operations in reviewing carrier requests to discontinue routes. S. 1916 would substitute "take into account" for "accord great weight" to evidence of unprofitability.

Section 16 of the Bus Act also instructs the ICC to consider "whether the transportation is the last motor carrier of passenger service to such point and whether a reasonable alternative to such service is available." S. 1916 would amend this instruction by requiring the ICC to give "great weight" to these factors.

The intent of these amendments is clearly to give state regulators the power to return to the arbitrary and unreasonable practices of the past. The amendments would sanction state decisions requiring that routes be operated for one passenger a day and that losses be incurred indefinitely on routes for which there is no public demand or need.

S. 1916 PROVISIONS CONCERNING ENTRY

The Bus Act substantially liberalized the entry tests imposed by the ICC on requests to inaugurate bus service.

S. 1916 would dramatically reverse that initiative by establishing a process whereby state regulators would be given virtual veto power over regular-route applications. S. 1916 would require the ICC in considering regular route applications to:

"accord great weight to the recommendations of each state in which the transportation to be authorized will be provided."

States today, and since 1935, have had the opportunity to participate as formal parties, on the record, in ICC application proceedings. This fact makes the language of the amendment curious at best. Not only is the specter of a state veto power created, but also the possibility that state "recommendations" will be off-the-record, ex parte views, which the other parties will be unware of and unable to respond to.

S. 1916 PROVISIONS CONCERNING SCHEDULE CHANGES

The Bus Act removes state regulatory jurisdiction over schedule changes unless the change results in less than one trip per day, except Saturdays and Sundays. S. 1916 would increase this threshold to three trips per day.

The only justification offered is the conclusion in the explanatory statement that:

"Under existing law, carriers can reduce service to one trip per day, perhaps scheduling trips at unreasonable hours that then justifies the termination of a particular route."

No evidence is offered that such has occurred. Again, it is the "regulator knows best" mentality. If the schedules are profitable why would a carrier purposely engage in scheduling practices which make the route unprofitable? Obviously it wouldn't unless it desires to go out of business. And in that event no regulator can force it to remain in business.

On the other hand, if too many schedules are operated and the result is unprofitability, the carrier should have the freedom to reduce its losses. This is a freedom the Bus Act gave and S. 1916 would take away.

S. 1916 is an overreaction to a misunderstood situation. Discontinuances of unused, unprofitable bus services have occurred for years, but under trying, costly circumstances. The Bus Act provided the mechanism to allow discontinuance decisions to be made based upon realistic economic considerations. Those which have occurred under the Bus Act are not the "first wave" and they have not harmed bus travellers.

The proposed amendments are aimed at a problem which doesn't exist. And since it doesn't exist S. 1916 would not solve it. But S. 1916 would grievously harm many of the major achievements of the Bus Act.

A LEGISLATIVE PROPOSAL FOR THE FUTURE

After one year it is clear that the substantial reduction in regulation resulting from the Bus Act has been successful.

Carriers and their customers have benefited. More carriers are in business today. Numerous carriers have expanded their service offerings, both regular route and charter. Prices are more attuned to costs, markets, and competition. Unused services which weakened carriers are being eliminated.

Nothing unexpected has happened. The prophecies of the authors and proponents of the Bus Act were correct.

The Bus Act was a crucial first step in acclimating the bus industry to marketplace competition. It has shown that gloom and doom forecasters, those who feared the unknown, were wrong.

The crucial question now is whether the remaining regulatory powers of the ICC and the state regulators serve any legitimate public interest.

Those remaining regulatory powers, whether over entry, exit, or rates, are basically paper-producing, make-work exercises.

Entry is virtually unrestricted, but an applicant must still negotiate a paperwork hurdle. And in Greyhound's case, because of Trailways' continuation of a policy of protesting every Greyhound application touching a Trailways' route, a year or more of exceedingly costly administrative process.

Exit from unprofitable routes is virtually assured, but a recalcitrant state and subsequent ICC review can consume nine months to a year.

Rate changes are also virtually assured. The ICC has effectively withdrawn from second guessing carriers on the propriety of rate increases and decreases. But it can still take months to accumulate and file the necessary paperwork. Intrastate rate increases first go to the states which have 120 days to act. If appealed to the ICC that agency has 60 days to act. In total, an effort to correct depressed intrastate fares or to merely apply to intrastate rates the same general increase last applied to interstate rates can take 180 days and even more when time is allocated to the preparation of information required by the regulatory agencies.

What public interest is served by maintaining a system of paper-work mazes, large bureaucracies, and lengthy timetables with expensive legal proceedings, when the outcome can be predicted with virtual certainty? A carrier knows the outcome will be a new operating authority, permission to discontinue a route, or a rate increase. Thus, what purpose is served in producing reams of paper, hiring accountants, paying legal bills, and attending hearings? Today we have all of the trappings of judicial proceedings when mere ministerial actions are involved.

Total deregulation is the answer. ICC regulation of the intercity bus industry should be terminated and state regulation precluded through preemption. This would put the bus industry on a par with its competitors—airlines, autos and Amtrak.

The "sunset" of regulation would eliminate those vestiges of regulation which remain with us and which hinder a complete adjustment to the marketplace.

"Sunset" would also clearly signal that there will be no turning back, such as envisioned by S. 1916, The Bus Regulatory Reform Act Amendment of 1983. It would end the present situation which finds carriers half regulated and half free, regulated in some states as if nothing has changed and freed of all regulation in other states.

Greyhound first supported total economic deregulation in early 1979. At that time we disseminated a white paper detailing our position and the reasons for it (Appendix L). While some of the problems addressed in that White Paper have been remedied by the Bus Act, particularly through the ICC's clear support of the intent and spirit of Congress, much of the analysis and the conclusions remain valid today.

Only a few short years ago the intercity bus industry was the stepchild of government policy. Little was known about the industry and in-depth studies of its problems and needs were few in number. This is no longer true. The debate over bus deregulation during the past four years has produced an awakening of interest. Numerous studies and analysis have been performed within and without government. And in virtually every instance, whether federal or state, public or private, the conclusion has been that continued economic regulation of the intercity bus industry serves no useful public purpose.

One of the best of these studies, which specifically addresses the public policy issues, is Deregulation of the Intercity Bus Industry by the Management Analysis Center and Professor Gayton Germane of Stanford University (Appendix M). It provides the critical analysis which supports the total elimination of ICC and state regulation of the intercity bus industry.

In May of 1983 an in-depth economic analysis of the bus industry, deregulation, the competitive marketplace, and early activities under the Bus Act was prepared by John Eichner of Simat, Helliesen, and Eichner Inc., a transportation economic research firm. Although prepared for Greyhound in conjunction with an ICC proceeding, it offers the best current analysis available (a copy is available for the Committee).

In conclusion, now is the time to begin the necessary steps to eliminate unnecessary economic regulation and allow intercity bus companies to compete on an equal basis with airlines, autos, and rail.

Safety regulation should be continued and in fact we support substantial enhancement of safety programs.

CONCLUSION

In general the Bus Act has been a success. The only apparent problems are (1) the refusal of some carriers to cease their efforts to obtain one regulatory scheme for themselves and one for Greyhound and (2) the efforts of a few state regulatory agencies to impede implementation of the Bus Act.

In the short term the ICC has the power to quickly cure the first by authoritative decisions placing those carriers on notice that their use of the administrative process to deny Greyhound, or any carrier, the benefits and protections of the Bus Act will not be permitted.

The ICC also has the power to substantially correct the problems created by punitive state action.

In the long term the answer is clearly the end of all federal and state economic regulation of the intercity bus industry.

Thank you again Mr. Chairman for this opportunity to comment on the first year under the Bus Regulatory Reform Act of 1982.

[The following information was subsequently received for the record:]

QUESTIONS OF THE COMMITTEE AND THE ANSWERS THERETO

Question 1. Greyhound and other carriers have applied to the States and, when necessary, to the Interstate Commerce Commission for intrastate fare increases. How important are these fare increases to Greyhound's overall operations? Are Greyhound's intrastate fares now equal to interstate fares for comparable service?

Answer. The ability to price in response to market and competitive forces, in lieu of attempting to meet the objectives of regulators, will be an important factor in the future prosperity of the intercity bus industry.

Intrastate passenger and package express traffic is important to Greyhound. With the flexibility conferred by the Bus Act, in both rates and service changes, the incentives to develop and stimulate this traffic have increased.

Greyhound's intrastate fares have not achieved parity with interstate fares; however, progress in this direction has been achieved. Between November 23, 1982 and October 18, 1983, the disparity between intrastate and interstate fares has lessened in 38 of the 47 states in which we conduct intrastate operations. Overall intrastate fares averaged 66 percent of interstate in November 1982. By October 1983 this had improved to 75 percent.

Question 2. Bus industry representatives testified that Greyhound will exploit deregulation and use its resources to destroy small carriers. What is your view of this claim?

Answer. First, the allegation is baseless. Every analysis of the economics of the intercity bus industry shows this assertion to be without foundation. The exhaustive studies of unbiased organizations such as the ICC, FTC, DOT, and DOJ, show how ludicrous this charge is.

Second, we are unaware of the identity of any small carrier making this charge. The conduct of small carriers in the first year of deregulation confirms the above referred to studies. Small carriers are entering the intercity bus industry in overwhelming numbers. They have shown absolutely no hesitation to expand their operations in competition with larger carriers, including Greyhound.

Third, when this charge is made its source should be considered. It usually originates with a very large bus company that seeks government restraint on Greyhound to give that carrier a competitive advantage.

Question 3. In your testimony, you mention that Greyhound has sought entry over 5,327 miles. How many points does this represent? Do you anticipate any further route expansion?

Answer. Greyhound's applications embrace service to 63 localities not served previously. These applications also remove restrictions which have limited service at an additional 74 localities.

With respect to the future, Greyhound, like all prudent, well managed carriers, will continually review its operations and route to determine the impact of competition, inter and intra model, and other market and environmental forces.

Question 4. As you noted in your testimony. Greyhound, like other carriers has sought to exit some unprofitable service. On average, how much was Greyhound losing in revenues on these routes? Please provide examples of routes on which Greyhound was losing especially substantial revenues.

Answer. As noted in my testimony, "exist" is probably the most misunderstood aspect of deregulation. It is particularly erroneous to assume that exit is confined to the discontinuance of entire routes. Actually in Greyhound's case this is only a part of the story. In many instances Greyhound desires to continue serving a route but has proposed to eliminate specific flag stops, highway stops, and other intermediate points which are unused by the bus riding public. The elimination of these points results in more expeditious travel for our customers and a more attractive service, since the bus does not stop as frequently.

With respect to the question, "on average how much was Greyhound losing in revenues on these routes" we can only answer with respect to those situations where hearings were held and specific studies performed. As noted in my testimony, many states approved discontinuances without requiring specific studies because the regulators knew from experience that the services were unused and operated at substantial losses. This question can be addressed by summarizing data contained in ICC decisions on abandonment requests. The second part of the question is similarly addressed by this information.

It is critical to note that the "losses" are "variable costs" less revenue. If "fully allocated costs" were used the losses would double.

State	Number of routes	Average loss	Greatest loss on single route
Louisiana	8	$43,385	$163,481
Minnesota	3	40,764	59,249
Nebraska	1	47,363	47,363
Oklahoma	3	17,091	20,837
Oregon	9	15,918	42,316
Washington	4	44,323	71,605
West Virginia	5	56,823	193,096

Senator Danforth. Next we have a panel. Mr. Paul Nagle, assistant to the executive director, United Bus Owners of America; and Mr. Ronald Faillace, president, United Bus Owners' Survival Association.

STATEMENTS OF PAUL NAGLE, ASSISTANT TO THE EXECUTIVE DIRECTOR, UNITED BUS OWNERS OF AMERICA; AND RONALD FAILLACE, PRESIDENT, UNITED BUS OWNERS' SURVIVAL ASSOCIATION

Mr. **Nagle**. Mr. Chairman, I am Paul Nagle, assistant to the executive director of the United Bus Owners of America, a trade association representing 1,800 bus companies in the United States.

You will notice that the panel lists two people and that there are three people with me at the table. What has happened is that the gentleman on my left is from Caravan Coach Lines, who came under direct assault last week in the House of Representatives in their parallel hearings, and by the time he realized that this had happened it was too late for him to be scheduled separately. So he asked that United Bus Owners of America, of which he is a member, that we share our time with him. And if you have no objection to that procedure, Mr. Chairman, I would like to ask that it be done.

Senator **Danforth**. Sure.

Mr. **Nagle**. Thank you, sir.

I want to say flatly that if it is possible I would like to associate myself with every point made by Mr. Sherlock. You invited us not to go through the declarations of pleasure of being before you, so I would like to apply that same thing. Instead of going point by point through the arguments that Mr. Sherlock advanced, I would like to associate myself with them in toto.

I also appreciate the invitation to Mr. Sherlock to share with you complaints that may arise from time to time among bus operators. The lion's share of my time is spent in dealing with the sort of thing that arises day by day among individual, virtually defenseless bus owners. So we do generate quite a bit of material. We share it with such people as the small business office in the ICC and the consumer and customer assistance offices in the district offices of ICC.

We found that Mr. Taylor, his staff, Mr. McFarland, his regional staff, have been very accommodating, that they have responded materially to the points we raised. But I would like to avail myself of the same privilege you have extended to Mr. Sherlock and say that we will bring before you the same types of presentation.

I was particularly interested in the remarks made this morning about the subsidized carriers being given ICC authority and the impact it has on the unsubsidized privately owned buses. I would like to ask, Mr. Chairman, if I may, that there be made a part of my statement in the record the agreement reached between New Jersey Transit Bus Operations and United Bus Owners of America for New Jersey Transit Bus Operations to withdraw their application.

I was delighted to hear that one of the publicly assisted carriers in Canada has followed suit and has also asked to apply—or asked to withdraw. We believe this may set the tone and conceivably the problem of ICC authority to publicly assisted carriers may become a moot point.

The other point which you raised to Mr. Sherlock is not apt to go away. That is that as more and more transit authorities acquire more and more sophisticated equipment, they will be tempted more and more to invade the charter field. And to the extent that the Urban Mass Transportation Administration may not have in place charter regulations which respond to the needs of the private carrier to be protected from invasion by public transit authorities, we may continue to have a problem in that field.

I was pleased this morning to hear Chairman Taylor declare very flatly that he supports the idea of a preapplication or pregrant safety fitness on the part of the applicant and recurring inspections thereafter. I was especially pleased to hear him say that he supports the provision of S.1108 that calls for annual inspections.

We in the United Bus Owners do have a strong dedication to annual inspections. We have a very sophisticated field inspection system. We have a safety patrol on the road at all times, as you already know.

I would like to say something that has not been said here this morning, that to the extent that enforcement is covered in S. 1108, which will make the funds brought into the public coffers by the Surface Transportation Assistance Act, to that extent I believe your bill, S. 1108, goes very directly to the present matter of oversight of the Bus Regulatory Reform Act.

I was a little disappointed this morning to hear that the Department of Transportation did not address the matter of the proposed rulemaking on the minimal liability requirements. However, I will not discuss that point further. I will say again simply that I associate myself with the comments of Mr. Sherlock, and I am certain that this committee is going to be very, very much aware of the extent to which the provisions of the Bus Regulatory Reform Act are indeed put into effect, and that minimal liability is required.

[The statement follows:]

STATEMENT OF PAUL NAGLE, ASSISTANT TO THE EXECUTIVE DIRECTOR, UNITED BUS OWNERS OF AMERICA

Mr. Chairman, my name is Paul Nagle. I am assistant to the executive director of the United Bus Owners of America (UBOA), a trade association enrolling Trailways and more than 1800 independent, privately owned bus companies. No other association, anywhere, serves so large a number of common carriers of passengers.

Mr. Chairman, UBOA has asked to appear before you, today, to express our views on the manner and degree to which the cognizant agencies, United States Department of Transportation (DOT) and Interstate commerce Commission (ICC) have implemented the Bus Regulatory Reform Act of 1982 (Public Law 97-261).

After living with the new law for nearly one year, UBOA believes that in Public Law 97-261, the Congress enacted a very useful piece of legislation. Any problems we have experienced are with the law's implementation, rather than with its content.

Mr. Chairman, members of this Committee already know that UBOA is extremely proud of our safety program. As our processes continue to improve, the safety program becomes increasingly valuable. Our five fully equipped patrol cars are constantly on the road. Except while at rest, during visits to properties of our members, the cars literally patrol the highways. During the month of August, 309 road patrol reports were presented to bus owners. Of that total, 259 reported violations; only 50 were observations based on drivers who were operating correctly. Of that number (309), 278 were UBOA members; the remaining 31 represent reports that were given to owners who are not (or were not, previously) enrolled in UBOA.

Also during August, there were inspections at 59 locations. We hope it will be reassuring to this Committee, that full safety compliance had been achieved at 26 of those 59 locations. In addition, 27 properties revealed only minor defects, while major problems were identified at six sites.

Mr. Chairman, having been surprised at some prestigious independent bus owner names appearing among this six, we asked our national safety director, Bruce L. Main, what degree of alarm should be registered. The answer was immensely encouraging. No alarm whatever, we were told, should be experienced. None of the six, said Mr. Main, presents a recurring problem; our inspections have accomplished their purpose.

Having set the stage, Mr. Chairman, allow me now to discuss the administrative problems we have discerned.

In the period since November 19, 1982, the ICC has approved hundreds of applications for operating authority. If the applicant has on file, a certificate of insurance (Form BMC-91), and if there are no protests, ICC gives its approval, routinely, even before the applicant has come forward with a resident agent in each State, and before having presented a tariff covering the types of service authorized in the certificate.

Except for BMC-91, ICC accepts from the applicant, self-certification of safety compliance. The prescribed language appears in Title 49 of the Code of Federal Regulations, Part 1160.75(g):

"(g) Safety evidence: Motor passenger carriers holding ICC authority shall indicate that they are in compliance with D.O.T. safety regulations. New entrants shall state the following:

"I certify that I have access to and am familiar with all applicable regulations of the U.S. Department of Transportation relating to the safe operation of commercial vehicles and the safe transportation of hazardous materials, and I will comply with these regulations.' "

In a "note to applicants," ICC then goes on to say where in the Code, the pertinent safety regulations may be found.

Our experience is that few applicants are really in compliance, or actually possess the information to which they attest familiarity. Generally speaking, the safety handbook left by a UBOA safety director, is the carrier's first exposure to the standards with which each carrier is required to be in compliance. The typical carrier is stunned when the inspector recites the sizes of monetary penalties assessed by DOT for failure to comply. Literally, our members, taken collectively, have been saved tens of thousands of dollars because our inspectors visited their premises, doing so before any DOT inspection personnel had put in an appearance.

More significantly, for the common good, our safety inspections have prevented accidents. We have both a selfish and an altruistic interest in accomplishing such prevention. Since virtually every one of our 1800 members is insured with us, every ounce of prevention translates into lower damage pay-outs. But beyond those economies, there is the very real benefit to the public, resulting from each prevented accident.

UBOA notes with approval, the progress of S. 1108, the Danforth Bill, Title III of which would set up inpsection standards for motor vehicles weighting over 10,000 pounds, having a capability of seating 15 or more passengers, operation of which, "affects trade, traffic, or transportation between a place in a State and a place outside such State."

DOT already has authority to inspect vehicles registered with the ICC, but the enforcement staff is woefully inadequate to the task of achieving universal safety compliance. S. 1108 would remedy that situation by using dollars made available under the Surface Transportation Assistance Act (STAA).

Whether or not S. 1108 becomes law in its present form, UBOA intends to continue to cooperate with enforcement personnel of ICC, DOT and any appropriate agency in any State.

We draw to the attention of ICC consumer assistance administrators, unsafe or illegal operations by carriers who are not members of UBOA. For companies who are members, we insist that there be proper ICC or State certification. We make it a practice not to enroll non-conforming carriers. Furthermore, our insurance agent of record is notified of the failure of a non-conforming carrier to set in motion the procedures for achieving compliance with DOT's safety requirements.

For example, we worked beside Tennessee authorities at the site of last year's world's fair. At recurring intervals, we assign a patrol car to week-long duty at Disney World. Further, we intend to have safety compliance mechanisms in place on the site of the 1984 Exposition at New Orleans.

Mr. Chairman, UBOA is of the opinion that the paper chase of ICC's self-certification, safety fitness procedure is the least laudable of ICC's enforcement activities. Lacking the inspection requirements contained in S. 1108, UBOA believes ICC has other options, none of which has been exercised. One such option would have been to include in (49 CFR) Part 1160.74, "Information to be submitted by applicants," the requirement that an inspection report be included.

Another option would have been to include in (49 CFR) Part 1160.75(g), a requirement that the applicant certify referenced vehicles to be roadworthy; that they are in safe operating conditions; have been adjudged so to be, by impartial professionals.

Some of what has been said here, will appear to be critical of ICC. No criticism is intended, in any way, to detract from the phenomenal way in which, in the wake of enactment of H.R. 97-261, ICC acted with impressive swiftness to release comprehensive regulations for administration of the Bus Regulatory Reform Act. UBOA does not argue that the options, outlined above, should have been part of the Commission's rulemaking on November 24, 1982 when application procedures were promulgated. UBOA does plead that, in the interim, since November, a period that has witnessed a spate of ICC rulemaking, much of it controversial, there was ample opportunity for the Commission to have articulated safety requirements that would be more incisive than are the ineffectual standards, currently prevailing.

UBOA suspects that behind ICC's non-insurance of incisive rulemaking, is the matter of lack of jurisdiction, rather than an absence of will. Current law, as you are well aware, Mr. Chairman, gives regulatory authority to ICC, but assigns safety enforcement to DOT. In that regard, we are fearful of an absence of will on the part of the Department of Transportation.

DOT disappoints UBOA on two major accounts, in the frame of PL 97-261:

(1) Proposed rulemaking would take maximum advantage of the law's delay procedure (three years from date of enactment) on maximum insurance requirements; and

(2) would set insurance standards at the threshold (minimum) level permissible, $2.5 million.

UBOA urges our members to carry at least $5 billion, and we declare $10 million to be advisable.

Unless, before November 19, 1983, DOT makes final its rulemaking on minimum standards of financial responsibility, the statute's upper level ($5,000,000) would become effective automatically. This is one instance in which we would applaud bureaucratic delay. Emphatically, UBOA does not welcome the likelihood that $2.5 million will become the standard on November 19, and that it will be continued for two years, thereafter.

UBOA will leave to others, the freedom to argue that either entry or exit procedures have worked less productively than this body may have intended. Our comments will go to two flawed actions, one each on the part of DOT and ICC.

In summary and in conclusion, UBOA feels strongly that DOT should have moved with alacrity to proposed rulemaking which would have established, at the earliest possible moment, the $5 million minimum level of financial responsibility, a level which, effectively, we see as being postponed until November 19, 1985.

Absent statutory standards for safety compliance, the Act under review still affords to ICC, ample latitude for prescribing fitness standards. We have mentioned two such options, neither of which has ICC come remotely close to espousing. No, the Commission's only fitness criteria are the filing of insurance certification, a resident agent to be identified in each State wherein the applicant seeks certification, and a tariff which will prescribe fixed rates and standards.

Mr. Chairman, UBOA hopes that this Committee and the entire Congress will direct ICC to enforce more relevant fitness criteria, both on first-time applicants and on previously certificated carriers. We hope, too, that the Congress will articulate disappointment over failure by DOT to move authoritatively, in prescribing suitable levels of financial responsibility.

It is amazing that the Bus Regulatory Reform Act has functioned so well with so little implementation. UBOA is certainly appreciative of the opportunity to appear before you to express our enthusiasms; to convey our disappointments that the cognizant agencies, ICC and DOT, did not anticipate and divert the reservations we have uttered. We hope both agencies may be persuaded to institute minor course changes, thereby enabling our enthusiasm to be free of all negative implications.

[The following information was subsequently received for the record:]

UNITED BUS OWNERS OF AMERICA,
Washington, D.C., November 17, 1983.

Hon. BOB PACKWOOD,
Chairman, Committee on Commerce, Science and Transportation, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: In a letter dated November 9, you invited our comments on two questions which might augment our formal statements on the matter of legislative oversight of the Bus Regulatory Reform Act (BRRA). We are complimented to respond.

Concerning *Question Number One,* we understand that the Department of Transportation (DOT) is about to publish its rulemaking whereby minimum liability for highway coaches will be placed at $2.5 million.

UBOA opposed that minimum; we advocated the full $5 million, contemplated by BRRA. Attached, hereto, is a copy of our views on the $2.5 million minimum, a letter transmitted on July 7 to DOT's Bureau of Motor Carrier Safety.

In our present comments, we limit our remarks to your exact question of the impact of a $5 million minimum will impose upon small carriers. In UBOA's insurance program, our minimum coverage is $1 million, a degree of protection for which the typical one-bus operator pays under $4,000 annually. All other things being equal, that carrier may raise the coverage to $5 million, incurring thereby, an additional premium of less than $1,000, not a large amount when the 400 percent increase in coverage is considered. The sum is trifling when taken in context with dollars invested by the carrier in the equipment being protected. Another advantage to the insured is the lowered first-year impact, resulting from pro rating increase, according to the policy's anniversary date.

Question Number Two referred to the Federal/State regulatory balance. In his appearance, on November 16, before the Surface Transportation Subcommittee of the House Committee on Public Works and Transportation, Chairman Reese H. Taylor, Jr., testified that the Interstate Commerce Commission (ICC) is determined to impress upon the individual States his aspirations for attaining a "meaningful Federal/State partnership." Mr. Taylor said he will be meeting with State officials to ensure an awareness that they "haven't totally been cut out of the act."

Chairman Taylor said he thinks the Bus Regulatory Reform Act is adequate in its provisions regarding a period of 120 days for processing exit applications. UBOA identifies with that position. We see no need for change in the exit-related pre-emption provisions of present law.

It will be recalled that, this past Spring, DOT was contemplating introduction of a bill, further to deregulate the transportation industry. We direct ourselves to just one provision of that draft legislation. As UBOA comprehends it, DOT would have pre-empted the States from re-regulating what the Federal Government has deregulated. We support that concept.

Also, we would support, enthusiastically, any legislation to make universal, procedures supplementing those in the Intenational Registration Plan whereby a certificated carrier would make just one fuel tax payment; would have just one registration, valid in all States. Such a single act of paperwork reduction would do a great deal to achieve compliance with all State laws; would make tour coach operation almost as trouble-free as is the movement of private automobile in interstate travel.

What has been presented here, is intended to broaden further the affirmative stance taken by our Association in our contributions to the oversight processes.

Thank you for having invited, for having permitted, our comments to be offered.

Sincerely,

WAYNE J. SMITH,
Executive Director.

Senator **DANFORTH**. Thank you, sir.

Mr. Faillace?

Mr. **FAILLACE**. Thank you, Mr. Chairman.

My name is Ronald Faillace. I am the president of the United Bus Owners' Survival Association. We represent a number of independent carriers within the Pennsylvania and New York-New Jersey area. I am here on their behalf.

Mr. Chairman, members of the committee, I have the privilege to be here on behalf of a vanishing American, one who helped create a way of life that is unique in the world. I speak of the independent bus operators. The word "independent" may be a misnomer.

We are among the most thoroughly regulated, monitored, inspected, policed, and scrutinized segments of society in America.

The books of regulations that govern us, and the multitude of committees of regulatory status at every level of Government outweigh the defense budget and the defense establishment.

But we are independent in that we are independent of massive subsidies, independent of Government support and independent of Government financing. We are free to compete as best we can in the marketplace.

The only bus entity that we in New Jersey know to be free of this regulation is a mighty organization, subsidized by the State of New Jersey, free of virtually every regulation which controls every other bus company—an organization which has shown itself willing and able to destroy what is left of the private sector—New Jersey Transit.

This is no idle claim made by some self-serving private bus operator out to deprive the citizens of New Jersey of a beneficial mass transit operation.

This is the statement of an independent bus operator who would like New Jersey Transit to stick to the job it was supposed to do when the citizens permitted its organization to provide mass transit for the commuter.

New Jersey Transit has an ongoing slogan. That is simply, we need this line to make money. So they successfully swallow up one transit line after another, adding them to the list of companies absorbed by New Jersey Transit and casting aside a few more commuters left orphaned by the disappearance of a favorite bus line.

Now, not content with wiping out virtually every major independent transit company in New Jersey, they want to go after charter business, the one last outpost of the independent bus operator. We, with investments of hundreds of millions of dollars, employees in the tens of thousands, with suppliers in the hundreds depending on our business, we are left to the mercies of New Jersey Transit for our survival.

The independent bus operator is quickly becoming an endangered species. What New Jersey Transit is and does we will document with ample evidence. We will show statistically the damage that has been done and will be done to the independent charter and line business in New Jersey when New Jersey Transit commences charter operations. What New Jersey Transit is going to do depends on you, the Senate of the United States.

You can allow New Jersey Transit to enter the area of interstate commerce, where private unsubsidized carriers are ready, willing, and able to provide service, an area in which New Jersey Transit is not needed, an area in which it has no right to function—and by so doing you can open the door to similar entities in 50 States to enter interstate commerce—or you can tell New Jersey Transit to do the job that private enterprises are supposed to do, to provide necessary economical, safe transportation to the commuter, in the State of New Jersey.

We shall provide a report for this committee outlining the impact of any State subsidized entity under charter and line business, the impact of interstate commerce, and the impact on the private bus companies. The report will show that:

One, New Jersey Transit is using Federal subsidies to unfairly compete with the private sector.

Two, the New Jersey Transit is illegally and unnecessarily using UMPTA buses for charters, thus reducing the useful life of equipment provided for the purpose of mass transit, ultimately requiring additional requests for Federal assistance, and also depriving private carriers of the additional revenue necessary to support line operations.

New Jersey Transit is issuing statements of profitability in regard to so-called lucrative and line operations that are simply not factual. New Jersey Transit continues to operate mounting massive operating losses due to fiscally irresponsible activity.

New Jersey Transit is using Federal subsidies to promote New Jersey Transit's Federal antitrust activities in competing carriers. New Jersey Transit is competing unfairly on regular route service where private operators are ready, willing, and able to provide adequate service. New Jersey Transit uses Federal subsidy moneys to compete against these carriers, thus discouraging private operators from instituting bus service for fear of the predatory practices of New Jersey Transit.

New Jersey Transit is controlled by the very same commissioner who dictates policy with the New Jersey Department of Transportation, who in turn regulates very strictly the approvals of all regular route authority within New Jersey, while there is a lack of regulation over New Jersey Transit's scope of operation, thus creating a tightly State-controlled transit system seemingly to promote New Jersey Transit.

The decision yesterday by the U.S. district court in New Jersey that New Jersey Transit was granted a right to monopolize areas of transportation deemed necessary for the statewide transit of riders only emphasizes the importance of your deliberation. This is the death knell of the independent bus operator.

It is also the death knell for economical free market transportation in New Jersey or anywhere else such activity as New Jersey Transit exists. Only through competition can we keep the costs of transportation competitive. Only through competition can public be served. One generation did not destroy the giant trusts that threatened our economic freedom only to have another generation set up new and more dangerous trusts, Government trusts to choke our freedom.

That is why we are here. Please do not be generous as the judge in New Jersey was in adding to the growth of New Jersey Transit's monopoly. We ask that you please prevent in all ways possible subsidized public carriers from putting private operators out of business through predatory practices which private operators fear even while they continue to be ready, willing, and able to provide essential services.

Senator DANFORTH. You have run well past your time.

Mr. FAILLACE. Thank you.

[The statement follows:]

STATEMENT OF RONALD R. FAILLACE, PRESIDENT, UNITED BUS OWNERS' SURVIVAL ASSOCIATION

Mr. Chairman, members of this committee, I have the privilege to be here in behalf of a vanishing American, one who helped create a way of life that is unique in the world.

I speak of the independent bus operator of New Jersey. The word "independent" may be a misnomer. We are among the most thoroughly regulated, monitored, inspected, policed and scrutinized segments of society in America.

The books of regulations that govern us, and the multitude of committees of regulatory status at every level of government outweigh the defense budget and the Defense Establishment.

But we are independent in that we are independent of massive subsidies, independent of government support and independent of government financing. We are free to compete as best we can in the marketplace.

The only bus entity that we in New Jersey know to be free of this regulation is a mighty organization, subsidized by the State of New Jersey, free of virtually every regulation which controls every other bus company—an organization which has shown itself willing and able to destroy what is left of the private sector—New Jersey Transit.

This is no idle claim, made by some self serving private bus operator out to deprive the citizens of New Jersey of a beneficial mass transit operation.

This is the statement of an independent bus operator who would like New Jersey Transit to stick to the job it was supposed to do when the citizens permitted its organization—to provide mass transit for the commuter.

New Jersey Transit has an ongoing slogan. That is simply, "We Need This Line To Make Money." So they successfully swallow up one transit line after another, adding them to the list of companies absorbed by NJT and casting aside a few more commuters left orphaned by the disappearance of a favorite bus line.

Now, not content with wiping out virtually every major independent transit company in New Jersey, they want to go after charter business—the one last outpost of the independent bus operator.

We, with investments of hundred of millions of dollars, employees in the tens of thousands, with suppliers in the hundreds, depending on our business—we are left to the mercies of New Jersey Transit for our survival.

What New Jersey Transit is and does, we will document with ample evidence. We will show statistically the damage that has been done and will be done to the independent charter and line business in New Jersey when New Jersey Transit commences charter operations. What New Jersey Transit is going to do depends on you, the Senate of the United States.

You can allow New Jersey Transit to enter the area of interstate commerce, where private unsubsidized carriers are ready willing and able to provide service, an area in which New Jersey Transit is not needed, an area is which it has no right to function—and by so doing you can open the door to similar entities in 50 States to enter interstate commerce—or you can tell New Jersey Transit to do the job that private enterprises are supposed to do, to provide necessary economical, safe transportation to the commuter, in the State of New Jersey.

We shall provide a report for this committee, outlining the impact of any State subsidized entity on the charter and line business, the impact on interstate commerce and the impact on the private bus companies. The report will show that:

1. New Jersey Transit is using Federal subsidies to unfairly compete with the private sector.
2. New Jersey Transit is illegally and unnecessarily using UMTA buses for charters thus reducing the useful life of equipment provided for the purpose of mass transit. Ultimatley requiring additional requests for Federal assistance. Also depriving private carries the additional revenue necessary to support line operation.
3. New Jersey Transit is issuing statements of profitability in regard to so called lucrative charter and line operations are simply not factural. New Jersey Transit continues to operate at mounting massive operating losses due to fiscally irresponsible activity.
4. New Jersey Transit is using federal subsidies to premote New Jersey Transit's Federal anti-trust activities in competing carriers.
5. New Jersey Transit is competing unfairly on regular route service, where private operators are ready willing and able to provide adequate service. New Jersey Transit uses Federal subsidy monies to compete against these carriers thus discouraging private operators from instituting bus service for fear of the predatory practices of New Jersey Transit.

6. New Jersey Transit is controlled by the very same Commissioner who dictates policy with the New Jersey Department of Transportation who in turn regulates very strictly the approvals of all regular route authority with New Jersey while there is a lack of regulation over New Jersey Transit scope of operation. Thus creating a tightly State controlled transit system seemingly to promote New Jersey Transit.

RECOMMENDATIONS

1. Have private operators involved in a meaningful way on any transportation advisory committees, and allowed them to participate in the providing of bus service as a first alternative as opposed to allowing a subsidized public carrier to operate thus causing an increase in Federal aid where it is not necessary.

2. Allow for private operators testimony prior to issuance of additional or existing subsidies so that it can be ascertained that in fact a subsidy is necessary.

Allow me to apologize, if I may, for taking up this amount of time, but to me, and to the members of my organization, United Bus Owners Survival Association, the issue is a matter of our very economical survival.

The report will be in your hands within 10 days.

I thank you, and I would be very pleased to answer any questions you may have.

Senator DANFORTH. How much does a bus cost?

Mr. NAGLE. Approximately $150,000, upward from there.

Senator DANFORTH. The ones that say Greyhound, the high-quality buses, that is about $150,000?

Mr. NAGLE. $162,000 is the price I am advised that New Jersey Transit paid for the MCI coaches.

Senator DANFORTH. Do you share the view with respect to small communities that bus companies are moving in? If there is a discontinuance, someone else will fill the void?

Mr. NAGLE. I rather part company from those who believe the answer is a small vehicle. I believe that if the service is to be provided, it may best be provided by using the traditional highway coach and perhaps making other than passenger purpose utilization of its passenger capacity.

You will be hearing this afternoon or this morning from the State of Illinois. The State of Illinois speculated in several areas about the possibility of inducing shippers in the affected communities to transfer the transportation of property from freight carriers, property carriers, so that the trips in question might be made more lucrative. Yes; I think that the opportunity to provide replacement service or to provide added impetus for continuing service has many attitudes which may be explored.

Senator DANFORTH. I understand, Mr. Nagle, that you would like Mr. Lovito to submit testimony?

Mr. NAGLE. Yes; I did say that.

Senator DANFORTH. Would you, please?

Mr. LOVITO. That would be satisfactory.

Senator DANFORTH. Thank you very much.

Next we have Mr. Philip O'Connor, Illinois Commerce Commission, representative of the National Association of Regulatory Commissioners, and Mr. Victor Weisser, director of the Transportation Division, California Public Utilities.

STATEMENTS OF PHILIP R. O'CONNOR, CHAIRMAN, ILLINOIS COMMERCE COMMISSION, ACCOMPANIED BY TOM MEYERS, TRANSPORTATION DIVISION, REPRESENTING THE NATIONAL ASSOCIATION OF REGULATORY UTILITY COMMISSIONERS; AND VICTOR R. WEISSER, DIRECTOR, TRANSPORTATION DIVISION, CALIFORNIA PUBLIC UTILITIES COMMISSION, ACCOMPANIED BY HARVEY MORRIS, SENIOR COUNSEL

Mr. O'CONNOR. Thank you, Mr. Chairman.

My name is Philip O'Connor. I am accompanied to my right by Tom Meyers, of the Transportation Division of the Illinois Commerce Commission. The Illinois Commerce Commission is the public utility regulator in Illinois. We are also representing here today the National Association of Regulatory Utility Commissioners.

I can be brief. First of all, I will tell you what we are not here to do. We are not here asking for money. We are not here asking for a lot of cross subsidies. We are not here asking for reregulation that would result in carriers having to stay in unprofitable routes. What we are asking for, however, is a modest amendment to the Bus Regulatory Reform Act which we think would give market forces, competition, and free enterprise a chance to genuinely exert themselves during this transition period to a fully competitive bus transportation market.

The essence of the prior-notice amendment is, first of all, not as Mr. McCracken noted, to gut the Bus Regulatory Reform Act. Quite to the contrary. It is a very modest change that enhances the purposes of the act. Its essence is to simply guarantee that truly local decisions will be made at the local level, not through burdensome regulation, but by having the abandoning bus companies supply important financial and route information as early as possible. That would allow the local government and local State regulators to promptly go out and look for replacement service.

That is what we have tried to do in Illinois under the handicap of not having adequate information in the early stages. We have occasionally been successful, but not as successful as we believe we could have been.

I of course will not go into the details here. You have the bill being sponsored by Senators Percy, Dixon, Pressler, and others. Let me emphasize several points in closing.

First of all, many new interests that are cited as having come in during the year since the act are really, in many cases, new entrants into already profitable routes. In the case of Illinois, where you have had 27 new entrants, about half of those are into airport connections, so they are really not replacing a service for the most part.

Second, the real key to profitability in our view is the match between revenues and costs on routes. It is simply not a question of how much revenue there is in the route. If we can go in to replace a high cost carrier like a Greyhound with a low cost local entrepreneur, we can probably much better manage the costs and the revenues.

Finally, States can do their own thing to help in Illinois. We have now, probably coming out of the State senate today, a bill that first of all will provide for a zone of reasonableness on rates that in any one year can be a 25 percent up or down deviation at the decision of the company. There will be substantial ease of entry, so there will be a rebuttal presumption that the route can support another carrier.

In the Illinois Commission, we are adding two people to our staff to really just go out and market routes for replacement.

Finally, I think we have a responsibility to become actively involved in getting voluntary cooperation from the carriers. We will make an explicit effort in this regard in the next 2 weeks to try to get Greyhound and the other two carriers to meet with us in Detroit in the middle of November at the National Association of Regulatory Utility Commissioners meeting to see what we can work out on a voluntary basis so that perhaps there is not the need for legislation. We hope we can come back here and tell everyone that the problems have been worked out.

Finally, we have attached to our testimony a rebuttal, we believe, of what is in the written testimony of Greyhound including 19 specific misstatements or distortions about both the Senate and House bills on the prior notice amendments which we think will be useful to you and your staff.

Thank you.

[The statement follows:]

STATEMENT OF PHILIP R. O'CONNOR, CHAIRMAN, ILLINOIS COMMERCE COMMISSION

Mr. Chairman, and members of the Committee, my name is Philip R. O'Connor and I am Chairman of the Illinois Commerce Commission. I appreciate the opportunity to appear at this hearing to discuss the effects of the Bus Regulatory Reform Act of 1982.

I am representing today both the Illinois Commerce Commission and the National Association of Regulatory Utility Comissioners (NARUC). NARUC is a quasi-governmental, non-profit organization of regulatory bodies of the fifty states, District of Columbia, Guam, Puerto Rico, and the Virgin Islands.

There is no single state position on the Bus Regulatory Reform Act. States tend to view the success or failure of bus deregulation in light of their own particular circumstances and philosophies. Some states are bitterly opposed to the Bus Act and believe it renders meaningless their statutorily mandated responsibilities to protect the public interest. Other states are comfortable with the Bus Act, but believe the Interstate Commerce Commission, by reversing state decisions in the great majority of cases that come before it, has abused the appellate powers granted it under the provisions of the Bus Regulatory Reform Act. And some states have totally deregulated their bus industries and to them the Bus Act is almost irrelevant. In Illinois we believe that some fine-tuning of the Bus Act is essential to address the increasingly serious problem of service abandonments in low density, rural areas. S. 1916, which Senator Percy introduced on October 3, and which we refer to as the "Prior Notice Amendment," provides the necessary tools to encourage service on routes which are under the threat of abandonment. We are gratified that the Prior Notice Amendment has received such strong support from NARUC's membership and the National Governors Association.

I am pleased that so many of our colleague states have presented their views on this important subject to their congressional delegations. Today I would like to largely confine my remarks to the area of greatest concern over the long run, discontinuance of service to rural communities, and then explain how S. 1916 would address this concern.

Like many regulatory matters, there is an interdependency of issues associated with bus regulatory reform. Entry, exit, rates, and federal-state relations all affect one another to such an extent that it is difficult to revise one factor without profoundly influencing another. But perhaps we can begin with the question of federal-state relations. The Bus Act gives the ICC the jurisdiction to review bus company appeals of state decisions on rate and abandonment matters. Unfortunately the Interstate Commerce Commission seems to presume bad faith on the part of the state when it reviews these cases. The ICC has heard at least 22 appeals of state decisions on bus matters since November 19, 1982, when the Bus Act went into effect. The ICC held the state in only 4 of these cases. With a track record like that there is little wonder the ICC has precious little credibility with the states. And when the ICC majority voted to eliminate the budget of its Office of Special Counsel, precisely the arm of the ICC which Congress intended to help small communities present their cases on abandonment appeals, it reflected the very unfortunate bias which the ICC demonstrates against the states and local governments. It would be most unfortunate if some state commissions simply decided that it would be a waste of taxpayers' money to defend their rate and abandonment decisions before the Interstate Commerce Commission because the ICC would automatically overrule them anyway. This is clearly not what Congress intended when it passed the Bus Act. I am not arguing that not state decision should ever be overruled. All we are asking for is evenhandedness by the ICC in reviewing state decisions.

A second area of federal-state relations that I would like to touch on is state regulatory uniformity. Partially in response to Section 17 of the Bus Act, the NARUC Transportation Committee created a State/Industry Task Force to recommend ways to bring motor carrier regulation into uniformity. Model state bus legislation is on the Task Force's agenda and I would expect very positive results from that effort within the next year. The states are in accord on the need for uniformity and are now developing the appropriate legislative language. I feel confident in saying that the model state bus legislation that will emerge will emphasize simplicity and flexibility, as well as uniformity.

The next issue that I would like to discuss with the Committee is bus rates and tariffs. This subject was vigorously debated during the hearings on the Bus Act last year. In Illinois our experience has been mixed. Between February and May the Illinois Commerce Commission granted passenger rate increase petitions of between 15% and 25% for several of the Trailways Companies and for Greyhound. Also, we partially denied a 20% rate increase application for the Peoria-Rockford Bus Company and were subsequently overruled by the ICC. The smaller companies have not asked for a rate increase because traffic levels are already depressed and the demand elasticity for their routes is such that they lose revenue when they increase rates. Hence, the marketplace is effectively regulating the rates of the small carriers.

Some of our colleague states may disagree with our assessment, but we believe that for all intents and purposes rate regulation has been almost totally federalized. The Bus Act creates a rebuttable presumption that intrastate rates held below comparable interstate levels are a burden on interstate commerce. The ICC has ruled that the state must demonstrate unusual conditions which justify a lower intrastate rate, but the ICC has not specified what kinds of conditions warrant a lower intrastate rate, nor how the state might be able to measure and establish such a rate. To complicate things further, the ICC loses its authority to investigate or suspend an interstate rate in two years, effectively making any interstate rate reasonable unless a complainant can prove otherwise.

Under the circumstances it is arguable whether the states have a meaningful role in rate regulation. In Illinois we have adopted a new overall strategy to create a climate in which bus companies will want to provide service in our state. This strategy includes granting bus companies a zone of rate freedom of +25%/−25%. In our estimation this will free our staff of the need to review rate increase applications that eventually would be approved by the Interstate Commerce Commission anyway if we denied them for any reason. Other states may endorse different approaches, but as long as the ICC's current rate regulations prevail, state concentration on rates seems to us in Illinois to be an exercise in futility. And in a more positive sense, ratemaking flexibility is an important consideration in our overall effort to attract new carriers to serve Illinois communities.

I would now like to turn to the subject of abandonments and what we consider to be a critically important piece of legislation to deal with the abandonment problem. In that regard I would like to thank Senator Percy and his staff and the other members of the Illinois delegation for their interest, assistance, and support for the Prior Notice Amendment.

Earlier this year the American Association of State Highway and Transportation Officials (AASHTO) and NARUC jointly sponsored a survey of states to determine the impact of bus deregulation on the states. The representative of AASHTO will present the survey results to the Committee, but we understand that the surveys from 40 states show that approximately 1,000 communities have lost all or most of their service. In addition, our staff feels the survey may understate the number of affected communities due to some technical difficulties with the survey format. In

Illinois 94 communities have lost service totally since the Bus Act went into effect. In fact, the Illinois system has been contracting for several years, even before passage of the Bus Act. In December 1981, 477 Illinois points received bus service. Currently only about 330 communities are served and we now see large geographic areas of Illinois without any regular route bus service at all. I wish I could say that the bus network has stabilized and that no more abandonments will occur. Regrettably, we believe more service will be discontinued over the next few years, and therefore we will need new tools to respond to the problem in an effective way. We believe S 1916 could give us those tools.

Perhaps the most interesting thing about S. 1916 is the fact that it brings local communities into the negotiations early in the process, so that a constructive solution to a particular abandonment can be found. We are convinced that local communities can play a very constructive role if they realize service continuation ultimately depends on their interest and cooperation. They need not always become adversaries of the bus companies as the current abandonment process requires them to be. But a prerequsite is that there must be a clearinghouse approach to abandonments. The companies must publicly identify the routes that they have under consideration for discontinuance so that the state, other companies, and local communities can respond in a timely manner.

Under current law a bus company notifies the state regulatory commission that it wishes to abandon a route. This usually catches the towns and cities on the route, as well as the state, by surprise. The state responds with a data request to the company asking for justification for the abandonment. Eventually this is produced and the state has only 120 days from the original date of filing to rule on the justification for the abandonment. If the state grants the request, the service is terminated very quickly. If the state denies, the company may appeal to the ICC and the ICC will "assign great weight" to route profitability and approve the abandonment if the revenue to variable cost ratio is unfavorable. Congress intended that the ICC would assist local communities on these appeal cases but, as I mentioned previously, the Commission majority has urged the Office of Management and Budget to eliminate funding for this function. In short, the current process is an adversarial procedure intended to arrive at an administrative decision, not a solution to the problem. Also, it is wishful thinking to believe new carriers will spontaneously enter discontinued routes to provide replacement service. A new carrier would need high visibility that public involvement can give, plus reasonable ridership and revenue data, before it would enter such a market. A significant weakness of the Bus Act is that it discounts the importance of marketing information for a potential carrier evaluating a marginal route.

The Prior Notice amendment would give a new carrier that information. Let me describe how it would work. First, each carrier would file with the state and ICC a list of routes and communities served that it had under consideration for abandonment. The state would notify these communities that a problem existed and that service could be jeopardized if ridership didn't improve. Often people in small towns are unaware of the service available to them because advertising is rarely done for these routes. No less than a month later, the bus line could file a "Notice of Intent" to abandon the route. This notice would be accompanied by passenger, revenue, and cost data with which the state and local communities could use either to recruit a new carrier or to calculate a subsidy offer if funding is available. The state would then have 60 days to try to find a solution to the problem. Finally, the company would file a standard abandonment application and the state would have 90 days to rule on the case. The current appeals process would remain in place except that the ICC would have to give serious consideration to the community's need for service in addition to the company's revenue to variable cost ratio.

We recently had a case in Illinois where prior notice would have worked well. A company filed to abandon a route and the Illinois Commission granted the abandonment. But it wasn't until the company posted notices in its stations that a second carrier even found out about the pending discontinuance. By the time a petition to begin serving one of the abandoned communities was filed with us and the authority was granted, the first abandonment had already been carried out, leaving a seven-week gap in service. The Prior Notice amendment would have prevented this from occurring.

Besides creating a clearinghouse for route swaps and generally creating a more orderly abandonment process, S. 1916 would require the ICC to consult with the states before granting new entry authority. It would not give the states veto power over new entry, but it would give the states the opportunity to make the ICC aware of the consequencs of a new entrant in a particular market.

A fallacy of the Bus Act is that small companies have the staff resources to monitor the ICC Register to keep current on applications for authority, and that small companies have the financial resources to wage successful protests to protect their profitable routes. Many simply do not have these resources. The ICC is supposed to take into consideration the effect of competition on a carrier's ability to provide service over its entire system. As a practical matter, the ICC ignores this criterion. Because of a recent ICC decision granting entry authority over an Interstate Highway in Illinois, we are concerned that over 40 communities in the western part of the state will eventually lose their only bus service. The Illinois commerce Commission believes competition is a laudable goal. but when an ICC decision is made in Washington which drives a small Illinois bus company into extreme financial distress, we believe Congress should take legislative action. S. 1916 would require that the ICC take the affected state's recommendations into consideration on entry matters to prevent ruinous situations such as the one I've just described.

S. 1916 would also reassert state jurisdiction over scheduling where the level of service offered is less than four trips per day. Although this provision has been misrepresented as an attempt to reregulate the industry, in fact it simply is intended to make sure that service is offered at a reasonable time so that the maximum ridership is generated. If the carrier eventually decides to abandon the service, the state will still have an accurate ridership picture for the route to present to other bus companies in an attempt to recruit new service.

Finally, the Prior Notice Amendment would change the National Transportation Policy to assign greater focus to the need for transportation service in rural areas.

The Prior Notice Amendment would not reregulate the bus industry, nor does it call on Congress to generate subsidy money to keep routes in operation. If local governments can generate subsidy funds, so much the better. But S. 1916 keeps the decision making and the responsibility for local transportation at the local level. Without the provisions of S. 1916 Congress can only look forward to a continual contraction of the intercity bus network. But if S. 1916 becomes law the states will have the tools necessary to reinvigorate bus service in rural America.

At the recent House Oversight Hearings on the Bus Regulatory Reform Act, S. 1916 was attacked by the representative from Greyhound who asserted, "S. 1916 represents a clear effort to gut major provisions of the Bus Act." The Greyhound testimony contains so many deliberate distortions of S. 1916 that I am compelled to respond to it in Attachment I of this statement.

Mr. Chairman, I appreciate this opportunity to discuss the Bus Regulatory Reform Act and our solutions to the abandonment problem. At this point I will be happy to answer any questions the committee may have.

Thank you.

ATTACHMENT I

RESPONSE TO THE GREYHOUND CORPORATION'S CRITIQUE OF S. 1916/H.R. 4067

S. 1916, the Prior Notice Amendment (PNA), is intended to confer the benefits of bus deregulation on rural America as well as the bus industry. The bill would fine-tune the Bus Regulatory Reform Act to give states minimal tools necessary to preserve service to small communities, either by locating a subsidy to continue service by the incumbent carrier or by recruiting an entirely new carrier to serve the route. S. 1916 does not reregulate the bus industry. It does not reverse the course which Congress set when it passed the Bus Regulatory Reform Act. And S. 1916 most certainly does not "gut major provisions of the Bus Act," as Greyhound alleged in its testimony for the House Oversight Hearings on the Bus Regulatory Reform Act on October 26, 1983.

S. 1916 squarely addresses an increasingly serious problem: the elimination of public transportation to rural communities. The intercity bus network has been contracting for years, but that process has accelerated since passage of the Bus Act, leaving thousands of small towns without any transportation except the automobile. This problem is made worse by the fact that the populations of rural communities commonly have a much higher proportion of elderly than larger cities. Senior citizens rely on bus service more heavily than other segments of the population, hence the transportation problem for rural America will intensify over the next few years.

In introducing the Prior Notice Amendment Senator Percy, Representative Simon and the other members of the Illinois delegation had the foresight to anticipate this problem. They recognized that by making modest adjustments to the Bus Act the states would have the mechanism for preserving service without significantly altering the basic thrust of the Act.

However, rather than accepting the Prior Notice Amendment as a vehicle to preserve service, Greyhound has chosen to misrepresent the Amendment as a thinly veiled attempt to repeal the Bus Act. Greyhound's major assertions are briefly addressed here:

TOPIC: MARKET EXIT

Allegation 1: States would be *required* to give wide publicity to carrier filings of routes under consideration for abandonment.

Response: The PNA does not require the states to publicize these routes, but it would be in their interest to do so to recruit new carriers or to get local communities actively involved.

Allegation 2: The carrier would be required to provide ridership, cost and revenue data for each route under consideration for abandonment.

Response: Incorrect. A carrier may have many routes on its list of routes under consideration for abandonment, but it would provide data only for routes for which it has filed a "Notice of Intent" to abandon.

Allegation 3: The PNA is "burdensome" because it would require carriers to maintain data on a route-specific basis.

Response: A carrier can hardly propose to discontinue a route if it does not know the route's profit margin (or lack thereof). Also, carriers which do not know their specific costs will become more efficient and profitable by learning them. The PNA is not "burdensome" in this respect.

Allegation 4: Despite a substanital reduction in regular route bus service in the past 12–15 years, no state has ever followed a prior notice procedure because existing regulatory procedures were sufficient to protect the public.

Response:

(A) The Bus Act obviously changed the regulatory environment for the states, so new mechanisms must be found to protect the public.

(B) With Prior Notice there may not have been such a "substantial reduction" in regular route service over the past 12–15 years. Alternative service could have been found for many routes.

Allegation 5: Information produced through the PNA process might be used to justify additional public transit subsidies rather than to assist private carriers.

Response: This objection to PNA is not entirely clear, but if a carrier is going to abandon a route, should it matter what type of company provides replacement service?

Allegation 6: Very few states are interested in planning for bus service, so they should not be bothered with unsought data and carriers should not have to supply it.

Response: We have yet to encourter a state that does not heartly endorse the PNA. Bus planning will be a critical state responsibility in the future.

Allegation 7: The PNA would establish a totally unnecessary scheme of record keeping and relation.

Response: The PNA was carefully crafted to minimize regulation and unnecessary data collection.

Allegation 8: The Bus Act sufficiently protects the public interest as written.

Response: The objective of PNA is to preserve service to rural communities which will inevitably lose it under current provisions of the Bus Act. Finding alternative service is central to protecting the public interest.

Allegation 9: The "burdensome" record keeping requirement of PNA would not replace the more current information regulatory authorities would require on a case-by-case basis.

Response: The data requirements of PNA are not excessive. Only routes for which a "Notice of Intent" to abandon has been filed would have to have any data filed for them at all. The data requirement would discourage frivolous abandonment threats. Finally, the PNA requirements would make any subsequent data request easier to comply with since most of the data would already have been assembled.

Allegation 10: The PNA would not address a felt public need or state demand.

Response: The public need for replacement service to rural communities is increasing, not decreasing. S. 1916 would give the states the tools to recruit new carriers.

Allegation 11: PNA would unnecessarily concern bus riders and communities who find their route on the list of routes under consideration for abandonment.

Response: Ultimately local communities must produce sufficient ridership to justify service. If they are not producing it, they should be made aware of that fact. If PNA makes them "concerned," that is exactly what it is intended to do.

Allegation 12: To identify a route as being under consideration for abandonment might drive ridership away.

Response: Extremely unlikely. PNA will improve ridership, not drive it away. Too often small towns aren't even aware that they have service available. PNA will bring the availability of bus service to their attention and that will encourage new ridership.

Allegation 13: While prior notice might work well for railroads, the dissimilarities between bus and railroad negate the need for PNA for buses.

Response: We disagree. Prior notice is critical for finding replacement bus service, notwithstanding dissimilarities between bus and rail infrastructures. The issue is bus service abandonment and matters extraneous to that are not particularly relevant.

Allegation 14: Many state legislatures favor total deregulation.

Response: Most state legislatures want the tools necessary to preserve rural bus service.

Allegation 15: Carriers only abandon routes where ridership is low, so the PNA process is unnecessary.

Response: PNA would not prevent abandonments of routes where ridership is low. But it would give affected communities time to bolster ridership before losing service.

Allegation 16: Greyhound has only received one subsidy offer, proving that there is no state interest in preserving service.

Response: Greyhound has demanded a subsidy of "fully allocated costs plus 20 percent," which obviously discourages subsidy offers. Also, subsidies are not easily generated. Funds must be appropriated for this purpose and that takes time. Normally no program has been established for this purpose, so it is not unusual that few subsidy offers have been made to date.

Allegation 17: By shifting the weight of evidence toward preservation of service, S. 1916 would sanction state decisions requiring that routes be operated for one passenger a day and that losses be incurred indefinitely where there is no public demand.

Response: This assertion is totally wrong. S. 1916 would not prevent any abandonments, but it would reestablish a balance among the 4 public interest criteria found in the Bus Act so that the ICC would deal with abandonment cases in an evenhanded way, as Congress intended.

TOPIC: MARKET ENTRY

Allegation 18: S. 1916 would give the states virtual veto power over entry authority, and the fact that the wording of the amendment refers to state "recommendations" on entry suggests secret dealings which bus companies would not be able to respond to.

Response: The word "recommendation" was specifically chosen by the drafters of S. 1916 to exclude the possibility that states would have veto power over entry. Since the ICC refuses to consider the effect of new entry on small carriers and local communities, the states should have the standing to notify the ICC if a potential entrant would cause small communities to lose service. S. 1916 does not force the ICC to abide by the state's recommendation, only to seriously consider it.

TOPIC: SCHEDULING

Allegation 19: Carriers, not regulators, know when buses should be scheduled. The "regulator knows best mentality" should be rejected.

Response: S. 1916 reasserts regulation over scheduling only at very low levels of service (3 or fewer trips per day). At higher levels there would be no regulation. When carriers offer service in only one direction so that a person can leave a town but not return; when service is offered at times when a bus rider must spend two overnights in a neighboring city if he is to use the bus at all; and when service if offered at very inconvenient times, then, indeed, the regulator may very well have better insight into a local market than company officials domiciled at a distant corporate headquaters.

[The following information was subsequently received for the record:]

STATE OF ILLINOIS,
ILLINOIS COMMERCE COMMISSION,
Springfield, Ill., November 29, 1983.

Hon. ROBERT PACKWOOD,
Member of the U.S. Senate,
Senate Commerce, Science, and Transportation Committee, Washington, D.C.

DEAR SENATOR PACKWOOD: Thank you for your letter of November 9 requesting additional information on the Bus Regulatory Reform Act Amendments of 1983. Attached please find our response to your questions.

The Prior Notice Amendment is intended to change the states' role from being strickly judicial to one more promotional in character. The provisions were carefully designed to give states the tools to promote service to rural areas. It is not the purpose of S. 1916 to reverse the direction which Congress set in the Bus Regulatory Reform Act of 1982. Rather the bill addresses the increasingly serious transportation problem which faces rural America. We believe that the states can effectively deal with the problem and I hope that you will view S. 1916 in that light.

There are many complexities inherent in the Prior Notice Amendment and our response to your specific inquiries may lead to additional questions. We will be happy to provide you with any further assistance you may need.

In the meantime, should our response need further clarification please don't hesitate to contact me.

Sincerely,

PHILIP R. O'CONNOR.

Attachment.

QUESTIONS OF THE COMMITTEE AND THE ANSWERS THERETO

Questions 1. Among its provisions, S. 1916—the Bus Regulatory Reform Act Amendments of 1983—would give State authorities a say in interstate entry decisions being made by the Interstate Commerce Commission. Why do you believe States should be allowed to so directly participate in interstate entry?

Answer. The distinction between interstate entry and intrastate entry is more theoretical than real. As a practical matter the Interstate Commerce Commission has jurisdiction over all entry decisions and the results of that have been extremely harmful to many states. Despite the requirement that the ICC consider the effects that a grant of new entry authority would have on a competing carrier's ability to provide service over its entire system, in fact the ICC has ignored this mandate. The ICC has been totally insensitive to the fragile nature of small carrier service to rural America and it has routinely granted new authority over the few profitable routes such carriers have. As a result, small companies have had to drop service to hundreds of communities nationwide or face bankruptcy. In Illinois the ICC irresponsibly granted new authority to a carrier over Crown Transit's profitable Peoria-Quad Cities route. This has had the effect of nearly bankrupting Crown Transit, a company which has provided excellent service to the small towns of western and central Illinois for the past 25 years, and seriously jeopardizes continued service to 40 communities in this state. In Texas a similar situation has occurred as Valley Transit, a small carrier which has served the towns of the Rio Grande Valley for decades, now must abandon service to many of them since the ICC allowed Greyhound and Trailways to invade Valley Transit's profitable routes. This situation is being repeated all across the country.

In New York and New Jersey the current entry provisions have created a different problem. Those states have subsidy programs to ensure continued service to the small towns located between metropolitan areas. When the ICC summarily grants new entry authority to a carrier which only wants to serve the large cities, it drives the states subsidy costs to prohibitive levels, thereby discouraging any subsidy for continued service at all.

The current entry provisions are dangerous for continued rural service for yet another reason: If a carrier is granted authority over a route after August 1, 1982, the exit tests are even easier than they are for routes started before that date. Hence a strong carrier can invade a Valley Transit's profitable route, drive it out of business and cause a loss of service to scores of small communities, and then easily abandon that route if its revenues are not sufficient. Clearly this represents very poor public transportation policy.

Finally, the current entry procedures effectively keep states in the dark about who is operating within their borders. The current procedures pertaining to caption summaries are insufficient to give the information they need to oversee their transportation systems.

S. 1916 is intended to address these issues. The amendment does not grant states a veto power over entry, as some bus company testimony would lead you to believe, but it does force the Interstate Commerce Commission to consult with the states to determine if a specific grant of new entry authority would seriously disrupt a state's bus system. This also would assist small companies which simply do not have the resources to wage successful protests before the ICC to protect their few profitable routes. Finally, S. 1916 would force the ICC to deal with the states in a more cooperative and constructive way.

Question 2. Why do you believe increased State jurisdiction over bus company schedules is necessary, as allowed in S. 1916?

Answer. Virtually every state regulatory commission is reluctant to interfere in the operations of a regulated utility. However, since passage of the Bus Act many companies have chosen to downgrade their schedules with the clear intent of driving away ridership to justify abandonment. For example, some routes are now "served" in one direction only. Others only receive service in one direction on Mondays, Wednesdays, and Fridays, and in the other direction on alternative days. On still other routes the buses are scheduled such that it is impossible to use the bus and return in less than two days, irrespective of distance traveled.

All of these parctices have the effect of discouraging ridership. Given the emphasis which Congress has placed on route profitability, it is not difficult for a bus company to justify abandonment through a simple schedule adjustment.

However, there is an equally important reason why a state regulatory commission needs jurisdiction over scheduling at low levels of service. The intent of the Prior Notice Amendment is to allow a state to encourage alternative service, that is, to "market" a route so that a new, lower cost carrier might be persuaded to provide replacement service. But if an incumbent carrier offers a schedule which drives ridership away, a potential substitute carrier will be unlikely to show an interest in providing that replacement service. In short the lack of scheduling regulation militates against the possibility that replacement service can be recruited.

It is central to the understanding of the Prior Notice Amendment that the rural routes in question are an extremely speculative opportunity for small carriers. There is no cadre of bus companies eager to serve them. Before any prudent company would enter these routes—indeed, before a bank would lend it the financing to do so—it would need a reliable body of information on which to base a market assessment. Such a company would need to know what the ridership on the route would be at a reasonable level of service offered at reasonable times. Obviously it is impossible to develop an accurate route profile if the incumbent carrier is intentionally offering substandard service.

Despite some allegations to the contrary, the scheduling provision of the Prior Notice Amendment is very modest. It would reassert state jurisdiction over scheduling only where the level of service was less than two round trips per day, i.e., 3 buses per day or less. At a level of service higher than that the company would be free of any scheduling regulation. This is hardly excessive or burdensome, and certainly does not represent a return to "traditional" regulation.

During the House Oversight hearings one bus company official asserted that this provision of the Prior Notice Amendment represented the "Regulator Knows Best Mentality." Considering the very poor schedules which have been offered on particular routes since passage of the Bus Act, it is not hard to see that the state regulatory may, indeed, have a much better understanding of a local rural route market than someone headquartered in a distant corporate buearucracy.

Question 3. Do you think the Prior Notice Amendment for abandonments will create any sort of paperwork burden on the intercity bus industry? More importantly, do you believe that this amendment could discourage carriers from providing new service because carriers would fear that if the new service proved unprofitable, they could never exit from the route?

Answer. The additional paperwork which the Prior Notice Amendment would require would be minimal. A company would file an annual letter with each state that it operates in to announce the routes which it has under consideration for abandonment. This would force carriers to begin a forward planning process of their own which many do not currently have. The information requirements are nothing more than a responsible carrier needs now to justify a route abandonment.

Second, the Prior Notice Amendment would not prevent a carrier from abandoning an unprofitable route. It would, however, require that new services which proved unprofitable would go through the normal three-step prior notice process for abandonments. This is necessary because communities on new routes should be entitled to the same consideration as those on established routes.

Question 4. Do you believe the Interstate Commerce Commission has acted responsibly in granting exit petitions from intrastate routes and in allowing intrastate fare increases?

Answer. As a generel rule the states are less concerned about fare increases than they are about abandonments. Most states believe the Interstate Commerce Commission has narrowed its responsibilities to simply rubber-stamping the applications which bus companies file. Carefully developed records that the states use to justify their decision are too often dismissed by the ICC upon appeal in favor of references to "the spirit of the Bus Act" or "the need for managerial discretion." The ICC has provided the states with precious little quidance to facilitate good decisions, and, indeed, at times seems to have developed an ad hoc decision-making process of its own which it applies to state decisions on a case by case basis, usually after the fact.

A fundamental tension exists between the states and the ICC. This tension has been incorrectly described as being a conflict over jurisdictional "turf." In fact it runs deeper than that. Most states view their role as protecting the public interest, which includes carriers, communities, and consumers. The ICC believes that if the carriers are granted their wishes that the public interest will take care of itself. This clash of philosophies manifests itself in virtually every decision which the ICC renders on appeals of state decisions. The cavalier treatment which the ICC gives state decisions flows from the fact that the ICC views the state decision—not the substantive issue at hand—to be on trial. For their part, the states' anger stems from the perspective that their decisions are routinely overturned by an agency which has totally abdicated its responsibility to the public. The question of whether the ICC has acted "responsibily" must begin with this conflict in mind.

The ICC certainly is not adhering to Congressional intent in its implementation of the Bus Act. The Bus Act includes many provisions intended to protect the public interest, especially where abandonments are concerned. However, the ICC has interpreted its mandate in a manner in which abandonments are seemingly encouraged and consideration about the last service to local comments and the absence of alternative sevice are simply ignored. This is not what Congress intended or those safeguards would not have been included in the Bus Act in the first place. Since the ICC is not following Congressional intent it cannot be said to be carrying out its mandate in a responsible manner.

Senator DANFORTH. Thank you very much.

Mr. Weisser.

Mr. WEISSER. Thank you very much, Mr. Chairman. I am Victor Weisser, the director of the California Public Utilities Commission, Transportation Division. To my left is Harvey Morris, senior counsel of the commission.

While the testimony you have received from some carriers has portrayed a rosy picture since the passage of the Bus Regulatory Reform Act, the undeniable fact is that hundreds of communities with no alternative intercity service have already been abandoned, and hundreds more are threatened with abandonment in pending State and ICC proceedings. We hear the reactions of the directly affected people and communities loud and clear, and believe me, they do not think it is a rosy picture.

In California, we hear from 98 communities and points facing total abandonment and 340 communities and points already receiving reduced service. We at the State and local level are faced with these dislocations and are trying to cope with them consistent with the intent of the act. We have expedited our process to work within the congressionally mandated deadlines, and we have actively solicited alternative carriers to provide substitute service to communities threatened with abandonment, unfortunately, I might add, with very limited results.

After almost a year of effort of my staff going out and speaking and meeting with every operator in California, 90 percent of the communities facing abandonment in California will be left with no substitute service if our petition to the ICC is not granted.

The point is, we are not working to turn the clock back on regulatory reform. We are trying to make it work. We are not trying to force companies to continue unprofitable services. Indeed, we allowed Greyhound to abandon services in two separate cases in which they showed were losing money and no subsidy was forthcoming, but we do believe that we have a responsibility to insure arbitrary and unwanted abandonments do not occur.

How can we accomplish this? Only through timely receipt and analysis of accurate information from carriers for use in the State hearing process, but as California and other States have found, this is precisely the area where some carriers have shown a lack of good faith.

In our State proceeding we asked Greyhound for the costs it had incurred, the revenues it had received, and the number of passengers that had utilized the service for each of the communities that it proposed to abandon. Greyhound refused to provide this information in our proceeding, although it goes to the heart of the analysis under the Bus Regulatory Reform Act.

Is the carrier losing money? If so, how much subsidy is required to preserve the service? Carriers are stonewalling the States. Senators Percy and Dixon have introduced S. 1916, amendments to the Bus Regulatory Reform Act which would require timely and accurate information from carriers before they begin State proceedings to discontinue service.

As the State agency in California charged with the responsibility of administering these hearings, we believe S. 1916's modest refinement of the Bus Regulatory Reform Act is essential for fair hearings and meaningful participation of local governments and affected citizens. However, Greyhound, in continuing efforts to withhold fundamental information, opposes even these modest safeguards. If the abandonment authority which the carrier seeks is justifiable, then why should the carrier be opposed to justifying it?

Greyhound has claimed that States may use such information against it, but if truthful information could in fact be used against Greyhound perhaps by establishing that Greyhound is not losing money or by providing a basis for the offer of a reasonable subsidy, then we submit that this is precisely what Congress intended: A safeguard against unwarranted service abandonments.

One further phenomena since implementation of the act merits discussion. We understand that if carriers do not want to provide service to certain areas of the State and can justify discontinuance authority, the States can no longer acquire interstate service to those areas. We want to report, however, that in California Greyhound has sought authority to abandon numerous communities, although these communities are on or in close proximity to highways which Greyhound would continue to utilize.

In other words, Greyhound would drive right by communities which it previously had previously received and grown dependent upon its services. For Greyhound, it would merely be a slight inconvenience to have them—have one of their schedules pull off the road or off a freeway off ramp and stop to pick up waiting passengers. But think of the impact of loss of service and the inconvenience to the people that are being told, well, drive 10 or 15 miles to the nearest service pickup points. How many of these people would be using the bus if they had access to a car in the first place?

I see that my time is rapidly concluding. I would like to sum up by saying we support the Illinois prior notice amendment. We urge your careful consideration of its contents. Thank you very much for your time.

[The statement follows:]

STATEMENT OF VICTOR R. WEISSER, DIRECTOR, TRANSPORTATION DIVISION, PUBLIC UTILITIES COMMISSION, STATE OF CALIFORNIA

I am Victor R. Weisser and I am here representing the Public Utilities Commission of the State of California (CPUC) of which I am the Director of the Transportation Division. Our address is 350 McAllister Street, State Building, San Francisco, California 94102. Accompanying me is Harvey Y. Morris, who is a Senior Counsel with the CPUC. I appreciate the opportunity to express the views of our Commission, which has regulated intrastate bus service in California since the early 1900's.

During the Congressional debates which led to the enactment of the Bus Regulatory Reform Act of 1982, many members of Congress expressed concern about the harsh effects that this Act could have upon small and rural communities. This concern was reflected in several aspects of the Act as ultimately adopted. Unfortunately, this concern has proven to be completely justified. The very real consequences of the Act are already being felt by the people who live in the hundreds of communities throughout our nation which have already been abandoned or dealt with severe cutbacks in service tantamount to abandonment. In addition, hundreds of other communities are being threatened with the discontinuance of bus service in the immediate future in cases pending before state regulatory agencies and the Interstate Commerce Commission (ICC).

Considering that airlines and railroads have long since terminated their service to many of these small and medium-sized communities, the bus had become the last means of public transportation between these towns and the outside world. From the correspondence and studies we have received, it is evident that the people who are most dependent upon intercity bus service to their communities are senior citizens, disabled persons, children and the poor who are unable to drive or cannot afford automobiles. In many rural communities, the bus provides virtual "lifeline" service for receiving medical treatment, filling prescriptions, traveling to jobs or schools, buying necessities, or visiting families and friends. Small businesses and hospitals in rural areas rely on the bus for express package service of parts and supplies they cannot stockpile.

Many people have written letters to our Commission complaining about the hardship they have encountered merely from new schedules which carriers have already imposed, much less the extreme hardship which they would face in the event of abandonment. It is common knowledge that rural areas do not have the medical facilities or specialists to care for all of the medical and health problems that afflict residents. Some of the more troubling correspondence has come from people who rely upon intercity bus service to travel to larger cities to receive treatment for cancer.

We recognize that Congress was sensitive to these problems and that the maintenance of service to small and rural communities was part of the national transportation policy as well as an issue to consider in service abandonment proceedings. However, the bus companies have been insensitive to the needs of these communities and the ICC does not appear to be too concerned about these problems either.

A good illustration of this insensitivity is the ICC's West Virginia decision, No. MC-1515 (Sub. No. 332), decided on August 23, 1983. In this decision, the ICC recognized that evidence was submitted that demonstrated that the discontinuance would endanger those communities and individuals who are most vulnerable. As the ICC stated: "Senator Byrd cites testimony by senior citizens who rely on petitioner's service for frequent trips to the doctor or to have prescriptions filled. Other persons without their own automobiles travel to and from work daily on petitioner's busses. Local government officials, businessmen, and college administrators pointed out the adverse impact which loss of all intercity bus service would have on areas which are already relatively isolated and economically depressed. With respect to package express service, other witnesses testified to the importance of Greyhound's service for prompt delivery of replacement parts to mines and of medical supplies and blood to area hospitals. The commanding officer of the Marine Corps in West Virginia stated that the use of bus service for recruitment purposes is crucial. Senator Byrd emphasizes that no other passenger bus service would remain at points on the routes where Greyhound seeks permission to discontinue its service. . . . " Id. at p. 5.

Despite this evidence, the ICC granted the discontinuance authority because the ICC found that Greyhound lost money from this service. While the CPUC does not take issue with the result in that case, we were disturbed by the ICC's rationalization concerning the impact upon the communities. After recognizing this hardship and not disputing the evidence, the ICC declared, "It cannot be assumed, however, that these individuals will be unable to reach their destinations. Many testified to taxi service availability, albeit at an increased cost. Bus service, including Greyhound's, remains available on other routes that *may* be accessible to protestants. Other protestants acknowledged that it would be *possible* to obtain rides from neighbors or relatives for these relatively short distances." Id. at p. 13. [Emphasis added.] Such statements of "possibilities" will certainly not be of comfort for those who actually cannot reach their destinations.

We recognize there are some bus services which are so unprofitable that they cannot be preserved or replaced. For those who are consequently dislocated as a result of the Bus Regulatory Reform Act, all we can offer is our sympathy. However, there is a large number of communities, currently being threatened with service losses that should not experience this hardship, because there is very little expense or inconvenience for carriers to continue to provide such service.

In earlier debates, members of Congress referred to so-called "horror stories" of buses passing through towns and not being able to open their doors. The Bus Regulatory Reform Act of 1982 has ended these concerns with its entry provisions which carriers have utilized in obtaining authority from the ICC to serve heavily populated communities. But this Act has caused a new generation of "horror stories" of buses that had previously served communities and have obtained authority or are seeking authority to keep their doors closed while they pass right through the communities. It is unconscionable for these carriers to desert people in communities that have grown dependent upon the intercity bus service and have no alternative intercity public transportation, when the carriers still utilize the highways which pass through or are in close proximity to these communities.

We can understand and accept service losses when carriers are abandoning an interstate route and want to discontinue intrastate service because they would no longer be serving a general area. However, in many cases, carriers are still using the main highways and serving the general areas, but have abandoned or propose to abandon bordering communities. In these instances, it is hardly a significant or undue burden for the carrier to pull over to the side of the road or just go down an off-ramp and get right back onto the highway after picking up awaiting passengers. In sharp contrast is the great hardship and inconvenience to the people in these communities who would have to watch helplessly as the buses, which they had previously used to receive medical care or visit loved ones, now travel by their towns without stopping. We do not believe that Congress intended for this to occur, but it is occurring and Congress can and should take some corrective measures to prevent it from occurring in the future.

Carriers may point out that they will still provide service to other communities ten miles or so from the newly-abandoned towns, but this is of little consolation to the senior citizens, disabled persons and poor who are unable to travel to the nearby communities—that is precisely why they use intercity bus service in the first place. It is important to recognize that since the carrier still utilizes the highway and serves some communities along the highway, this may actually discourage other carriers from providing replacement service to the abandoned communities.

Many had theorized that the entry provisions of the Bus Regulatory Reform Act would help fill any gaps in service caused by the new exit provisions. Empirically, however, this is not taking place. Ever since Greyhound first indicated that it wanted to discontinue service to ninety-eight (98) communities in California over nine (9) months ago, our staff has actively sought other carriers to serve these communities. As of this date, only ten (10) of ninety-eight (98) communities are specified in any of the new certificates issued by the ICC or CPUC since the enactment of the Bus Regulatory Reform Act of 1982. As one might expect, these ten (10) communities generally are more heavily populated than the other eighty-eight (88) communities for which no new carrier has sought authority to serve. The fact is that small or rural communities are not big money-makers. It is unrealistic to assume that relaxed entry provisions, even coupled with active promotional activities by state or local governments, will result in new bus service to much more than approximately ten (10) per cent of the lost service.

For these reasons, we believe that Congress should amend the Bus Regulatory Reform Act to clarify that states may require carriers to continue to provide service to the communities that have grown dependent on such service when the carriers will still use highways that pass through or in close proximity to the communities.

Shortly after the Bus Regulatory Reform Act of 1982 went into effect, bus companies, such as Greyhound Lines, Inc. (Greyhound), rushed to file discontinuance applictions with the relevant state agencies throughout the United States. In our state, Greyhound filed one application to abandon ninety-eight (98) communities. In our attempt to process this massive application within 120 days, the CPUC immediately sought data concerning the variable costs, revenues received and traffic surveys for each of these communities. Greyhound not only failed to provide most of the requested data to the CPUC, but it also refused our request that it provide the data to the affected communities or provide them with a clear listing of the ninety-eight (98) points proposed for abandonment which were not evident in Greyhound's application.

Greyhound's case is currently pending in the ICC and we are not attempting to litigate it here. But there are general patterns that are emerging as to how carriers are now responding to the states which are trying to implement the new policies underlying the Bus Regulatory Reform Act of 1982. While state agencies currently act much more expeditiously in processing carriers' applications in order to comply with the 120 days time period, the carriers are often not prepared and do not have the variable costs, revenues and traffic data tabulated to make the state hearings meaningful. The carrier may eventually compile such information towards the end of the 120 days, but then there is little time left for discovery, hearings, briefs and a decision by the state agency. Moreover, as our agency and many state agencies have found, the carriers are now much less cooperative and often unwilling to comply with state procedural requirements, apparently assuming that after "stonewalling" for 120 days, they can usually get discontinuance authority from the ICC.

Carriers may claim that state procedural requirements are bothersome. In fact, however, some members of their staffs readily admit that their goal is to do as little as possible in these important discontinuance proceedings. States' procedural requirements are not merely designed to facilitate the processing of applications by state agencies. These requirements are also essential to enable local governments, businesses and passengers who are affected by the proposed discontinuance to have meaningful opportunity to participate in the state hearings.

It is imperative that those affected by any proposed discontinuance of bus service be sufficiently informed in advance of state hearings so that they can decide whether to participate in the hearings; identify, develop, and offer subsidies to retain services; or seek alternative carriers to provide the service. Intercity bus service is vital to many communities and they must have an opportunity—a meaningful opportunity—to preserve the service or find alternatives.

Considering that the carriers must complete their planning to determine whether to abandon certain communities well in advance of actually filing applications with state agencies, it would not be burdensome for them to give advance notice to the state and local governments prior to filing applications with the state. We therefore believe that at the very minimum, Congress shold adopt S. 1916, which would amend the Bus Regulatory Reform Act by requiring more timely and sufficient notice than under the current Act. While these additional procedures may moderately increase the lead time for carriers which desire discontinuance authority, it is clearly preferable to the present system in which many communities have already lost their only intercity bus service, because, if they received any notice of the carrier's application for discontinuance authority, they received it too late or they were not furnished with sufficient information to do anything about it. We believe that this amendment is completely consistent with the intent of the Bus Regulatory Reform Act of 1982.

We also believe that the data provided by the carrier should reflect the specific variable costs, revenues, and traffic surveys of each community proposed for abandonment. In this way, an individual community can be informed of the specific subsidy required to maintain service to it without having to subsidize service to other communities along the route. Moreover, this specific information could establish that bus service is profitable to certain communities and therefore abandonment may be unjustifiable. Currently, carriers often group communities together in the data they present so that it becomes impossible to know which communities may require subsidies and which ones do not since the revenues received from serving all of the communities may not exceed the variable costs. We want to emphasize that each of the affected communities is unique and presents different issues for or against discontinuance of service. Their people and businesses deserve individual treatment for each community in state and ICC proceedings.

Finally, we respectfully submit that states should be allowed a limited role in regulating bus companies' schedules under certain circumstances. Under the Bus Regulatory Reform Act of 1982, states were preempted from regulating intrastate schedules of interstate carriers and, subsequently, many carriers have changed their schedules with the result that travelers are required to stay extra nights in other cities if they need to travel there. Many of the bus riders are senior citizens, disabled persons or the poor; therefore, schedule changes can result in a de facto abandonment since they cannot often afford additional food and lodging expenses in view of the fixed incomes they must live on. Indeed, our Commission has been flooded with letters and telephone calls from people who have expressed the great difficulties they now face in trying to travel to other cities for jobs or medical care or to visit their families and friends. Moreover, schedule changes which result in bus service to cities at inconvenient times discourage ridership. Consequently revenues will decrease and the carrier may then seek actual abandonment.

We do not believe that states must control all of the schedules of interstate bus companies. In those instances when a bus company provides frequent service to and from a town each day, such regulation is not necessary. But for those towns which have minimal daily bus service, the state agencies with jurisdiction over intrastate service should be allowed to regulate the schedules of the carriers.

In conclusion, we want to emphasize that the CPUC recognizes the reasons for the initial passage of the Bus Regulatory Reform Act of 1982 and has attempted to restructure its approach to intercity bus service regulation. Not only have we accelerated processing of rate and discontinuance applications, but we have also actively promoted the development and expansion of bus service in California. We are not asking to undo the Act, but that Congress should consider amendments to refine the Act to better protect small communities. Too many of these communities have already lost or are threatened with the loss of intercity public transportation without a meaningful change to participate in proceedings and explore alternatives to loss of service. These communities must receive more advanced notice of discontinuance proceedings and are entitled to receive specific, relevant data for these proceedings. If the carriers still intend to use the highways that pass through or along these communities, then these communities should not even be faced with the prospect of total discontinuance of service.

Those who predicted that the Bus Regulatory Reform Act of 1982 would not result in an unacceptable loss of service are being shown every day that they were absolutely wrong. This lifeline service has already been lost by thousands, and thousands more, who still rely on the bus, will soon be deprived of its services unless Congress amends the Act to provide for greater protections for the people and businesses in small and rural communities.

[The following information was subsequently received for the record:]

Questions of the Committee and the Answers Thereto

Question. Greyhound Lines, Inc. charges in its statement that after it sought California PUC approval to discontinue service on several routes, but before the evidentiary phase, the California PUC undertook a media campaign which "grossly misrepresented" Greyhound's application and future service plans in California. What media contacts did the California PUC have in this matter? What is your response to Greyhound's assertion?

Answer. Greyhound's claim that the California Public Utilities Commission (CPUC) undertook a media campaign which grossly misrepresented Greyhound's application and future service plans is patently false. Greyhound refers to quotes by the CPUC's staff in response to press inquires about Greyhound's proposed discontinuance of service to over ninety (90) communities, a subject which the media apparently believed was newsworthy enough to print the newspaper articles containing these quotes. Depending on the particular questions of the reporters, the CPUC staff gave background information, discussed the then-pending CPUC proceedings, and made projections of future service losses.

The CPUC staff did not grossly misrepresent Greyhound's application. Originally, Greyhound submitted to the CPUC a "schedule change" which proposed the complete abandonment of seventy-three (75) communities and reduced service to 344 other communities. After CPUC staff informed Greyhound that it had to file a formal application for the communities it wished to abandon, Greyhound filed an application to abandon over ninety (90) communities. One week later Greyhound filed an amendment to abandon eight (8) additonal communities, and then subsequently filed another amendment to withdraw two (2) communities from its application. Approximately one week after telling the CPUC that Greyhound would not seek any further abandonments, Greyhound filed an application with the CPUC to abandon commuter operations between Vallejo, California and San Francisco, California, which application Greyhound subsequently amended to include commuter operations between Napa, Californa and San Francisco, California.

During this time frame, the newspaper articles in question were published and they did not misrepresent what had occurred. We do not believe that any member of the CPUC staff made any conclusions concerning the merits of Greyhound's applications before evidence was submitted. In any event, Greyhound's applications were assigned to Administrative Law Judges who objectively considered the arguments and evidence, and the CPUC Commissioners ultimately decided these cases.

The CPUC staff's estimates of projected future losses of bus service were based upon a California Department of Transportation ("Caltrans") study, entitled State Intercity Bus Plan, which was published at the end of 1981 and projected great losses of intercity bus service. Greyhound had two (2) members of its staff serve at different times on the Technical Advisory Committee to Caltrans for this study. Additionally, Frank Nageotte, Greyhound's Chief Executive Officer, wrote in an August 2, 1979 San Francisco Examiner article that Greyhound serves 412 California towns and the majority of them are losers and break-even routes which risked abandonment if deregulation occurred. Only time will tell whether Greyhound will seek the abandonment of more communities than the ninety-eight (98) communities involved in Greyhound's pending case, but the CPUC staff's statements clearly had a legitimate basis.

Regardless of such estimates or projections, the CPUC was not predisposed against Greyhound. While the CPUC dismissed Greyhound's application to abandon ninety-eight (98) communities, the dismissal was without prejudice to Greyhound's right to refile a more informative application that provided better notice to the affected communities. Moreover, in recognition of the policies of the Bus Regulatory Reform Act, the CPUC has granted two other applications by Greyhound to discontinue service in California and the CPUC has found itself preempted from regulating the provision of pickup and delivery service in commercial zones in California.

Question. In your testimony you assert that States should be able to require carriers to continue to provide service to communuities that have grown dependent on such service when the carriers will continue to use highways that pass through or near the communities. If a carrier, however, showed that such continued service would be a money-loser, would you still want to require the service? Would States offer subsidies to finance this service? Does California have such subsidy funds available?

Answer. The CPUC has submitted this proposal for Congress to consider as an amendment to the Bus Regulatory Reform Act of 1982. Since this proposal only refers to dependent communities that are located on or adjacent to highways that the carriers will continue to use, it is unlikely that carriers would lose any money because the variable costs for that service would be minimal. If a carrier did lose any money, the amount of loss would be insignificant. The CPUC's proposal, therefore, asks Congress to clarify whether the public interest warrants the continuation of service to a community which has grown dependent on the service, when the carrier would not lose any money (or would lose an insignificant amount of money), and the carrier would still be serving the general area.

States may offer subsidies for the continuation of such service if the carrier actually incurred losses. However, since the losses would be so minimal, and therefore the subsidy would be rather small, the state process for providing the subsidy for this service could cost more than the subsidy itself. Even the carrier may spend more money justifying the discontinuance than the subsidy itself is worth the CPUC suggests that it may make more sense for Congress to declare that the public interest supports the continuation of such service and prevent the greater expense that would be incurred by the state, the carrier and perhaps the Interstate Commerce Commission in determining whether to grant the discontinuance application or what subsidy is necessary for the continuation of the service.

The State of California has two (2) bills pending, which would authorize state subsidies for intercity bus service in addition to transit funds already available to regional transportation planning agencies. Of course, local governments, businesses, or civic organizations may already have funds which could be used to subsidize bus service to their particular communities if they knew the actual revenues recieved and costs incurred by the carrier for serving their individual communities. Unfortuately, despite the CPUC's attempts to obtain this specific information, Greyhound has refused to produce it, and the local governments are unable to ascertain the specific subsidy, if any, required for continuing Greyhound's service to their communities.

Senator DANFORTH. What does happen if service is discontinued? Do you know?

Mr. WEISSER. I think that those people who can call on neighbors to carry them to the nearest community will do so. I think some discretionary trips are eliminated. In certain cases, disasters occur. We received a letter from one lady who is receiving treatment for cancer in San Francisco. Due to a service adjustment, a timetable change, she was unable to make that type of treatment. This is one horror story, and there are dozens of these we are getting. Fortunately for this lady, a further service adjustment was made and she was able to make that trip.

We think discretionary trips are being lost. We are not seeing the replacement services coming into effect, Mr. Danforth, that had been discussed in the debate prior to passage of the act in California, at least.

Senator DANFORTH. What do people do? The bus service is discontinued, so what happens to them? Do they not travel? I take it almost everybody who gets on a bus is going to have to travel from his or her residence to the bus stop. Does this mean that they will continue to travel and travel distances are longer? What is the situation?

Mr. O'CONNOR. Senator, we have tried, even where there have been abandoned routes, to really find that out. We do not know. Let me make one comment on that question. That is an important one and the kind of stories that we hear are important. What may be more important to focus on is really the future on all of this, not who is losing service now or what people are going to do. That may be too static a view of the market.

There is a real opportunity here under this, the Bus Regulatory Reform Act, to get genuine competition and entrepreneurial activity into the market. What we are complaining about in Illinois is that we do not have the opportunity to go out and give that little bit of help to the small operator to help get him in and have a much more dynamic transportation market. That is the real key to all of this.

Senator DANFORTH. That is what you want. You want notice so that you can go out and get somebody else?

Mr. O'CONNOR. Just adequate financial information and a little bit of help.

Senator DANFORTH. Do you think that would work?

Mr. O'CONNOR. I am willing to put my faith in that. I suppose I am willing to come back and tell you I blew it if it does not, but in Illinois we are very happy to try the marketplace if we just get a little bit of help to make it work.

Senator DANFORTH. Right. And you feel the same way, Mr. Weisser?

Mr. WEISSER. We believe that that would be a significant improvement on what exists. That is not to state that we think that a majority of the communities that are going to be abandoned will obtain replacement service through that type of program, but it will certainly be an improvement over what we see today.

Senator **Danforth**. What would you do? How would you handle it? Just give me an example. Greyhound is about to abandon service to a community in Illinois, and you want to fill the gap. What would you do?

Mr. **O'Connor**. Well, first of all, under the prior notice amendment, one of the things that would happen is, we would have some notion very early on in the game of what routes could possibly or would likely be abandoned, so we can at that point begin the early work.

Second, we would be notified a little bit earlier of the intent to abandon. We would get the financial information. That would then give us the opportunity to make use of the network we are trying to establish with currently existing and operating small companies to see if they would be interested in examining those routes for entry.

In addition, as I have noted in my testimony, we are adding two people to the Commission staff who would be involved actively in marketing this. Frankly, that is not a very different kind of activity than we now engage in and other commissions engage in, in being nonpaid consultants to all kinds of small operations, whether they are small electric companies or small water companies.

You see, one of the real problems here is that the Bus Regulatory Reform Act has a kind of implicit assumption in it that small operators are capable of paying attention to the Federal Register and doing all these other kinds of things. If we could find a way to mediate a lot of that redtape through the State commissions, what you would really have is just a guy making a decision to go into business. That is what would make it simple and easier and more attractive. We think that would make an awful lot of difference.

We have tried on occasion. We have gotten alternative service in a few cases. It was harder because the information was not forthcoming earlier.

Mr. **Weisser**. I might add that with the information that would describe costs and revenues, if no alternative operator was able to be attracted to provide the service, that information at least would allow the States and local governments to consider whether or not the service was valuable enough to support the notion of a subsidy being offered, and that that subsidy not be an inflated offer, but one that reasonably reflects the cost the carrier is likely to incur with less revenues.

Senator **Danforth**. Gentlemen, thank you very much. That concludes the hearing.

[Whereupon, at 11:35 a.m., the subcommittee was adjourned, to reconvene at the call of the Chair.]

ADDITIONAL ARTICLES, LETTERS, AND STATEMENTS

STATEMENT OF HON. ROBERT D. ORR, GOVERNOR OF INDIANA

Mr. Chairman, your committee is to be commended for initiating oversight of implementation of the Bus Regulatory Reform Act of 1982. This statement for the record is presented in my capacity both as the governor of a largely rural Midwest state and as Chairman of the National Governors' Association Committee on Transportation, Commerce and Communications.

At the August 1983, annual meeting of the National Governors' Association, the governors adopted new policy relating to intercity bus transportation. The action was taken in the wake of Congressional enactment of the Bus Regulatory Reform Act of 1982. The governors support the intent of the Act—to foster competition within the intercity bus industry. However, the governors feel that some moderate adjustments could be made to the Act without compromising its basic goals. Simple modifications could give the states the tools necessary to attempt preservation of existing service or to find replacement carriers.

There is concern among the states that intercity bus service to rural communities will be largely discontinued as bus carriers take advantage of freedoms granted them under the Bus Act. By not receiving advance notification of abandonments, states and communities are precluded from designing enticements to preserve service and disadvantaged in locating substitute carriers. Since implementation of the Act, abandonment petitions have been filed for over 1000 communities nationwide with additional abandonments expected in the future. Very few new bus companies have surfaced to fill the vacancies and some industry analysts fear that some marginal companies and small operators may soon face bankruptcy or will discontinue their regular route operations entirely. Rural routes are bearing the brunt of service abandonments. The reason is elementary: the Bus Act's emphasis on the revenue to variable cost test in evaluating the public need for service. Rural routes are generally unprofitable, which makes them unattractive for new carriers. Yet rural areas have the greatest need for bus service because other transportation alternatives are usually unavailable to them.

The market entry standards of the Bus Act, designed to provide bus companies with greater freedom to enter into markets or expand existing operations, also allow carriers to compete against another carrier's profitable routes. This results in smaller profits for the incumbent carrier to support marginal or unprofitable routes. The problem is further aggravated by deregulation of charter service which many bus companies have traditionally used to cross-subsidize regular route service. Deregulation has led to overcapacity of charter service which in turn has reduced the profit margin for many companies.

Finally, provisions of the Bus Act place severe timing and informational constraints on the states in hearing abandonment cases, and if a state denial is appealed to the Interstate Commerce Commission (ICC), the ICC has neither the statutory leeway nor apparently the inclination to support the state decision. When adopting the Bus Regulatory Reform Act, Congress amended the National Transportation Policy to clearly state the goal of providing and maintaining service to small communities. It was intended that the ICC consider the impact of service changes on small towns whenever appropriate. In doing so, the ICC was charged with striking a delicate balance between the need to eliminate excessive regulation and provide for increased competition in the industry, with the need to insure service in all areas of the country. We believe there is legislation history to indicate the Congress meant that no area should be inadvertently harmed. However, there is strong concern that in its zeal to deregulate transportation, the ICC will ignore the statutorily-mandated criteria by which small communities are supposed to be protected from unwarranted abandonments.

Indeed, Congress intended that the ICC would work with local communities to ensure that the best case was presented on their behalf in abandonment cases. Yet the ICC majority recently recommended to the Office of Management and Budget that the fiscal 1985 budget for the ICC Office of Special Counsel be totally eliminated. This office is precisely the arm of the ICC that is charged with assisting local communities. Coupled with its nearly unbroken string of reversals of state decisions on abandonments, the ICC hardly demonstrates any concern whatsoever for rural communities.

The results of deregulation have not been as anticipated. Consumer benefits have been mixed with those most dependent on the service suffering. The rapid increase in abandonments of bus service to rural suffering. The rapid increase in abandonments of bus service to rural communities concerns many states. Some changes to the disorderly abandonment process must be made and some safeguards implemented to protect small communities from isolation. The absence of meaningful public participation in a matter of significant local importance should be corrected. States need more cooperation and consultation with the ICC so that the Commission will not inadvertently negate efforts to sustain service to rural communities. Service will only be maintained to rural communities if the states are given the time and information needed to work with local communities and bus companies to either generate a subsidy or attract a subcommittee carrier. Given sufficient lead time and flexibility, states can provide assistance to local governments to ensure continuation of service to those dependent on intercity bus transportation.

In the policy adopted this summer, the governors urge the federal government, in close cooperation with the states, local communities and private companies, to investigate the adverse effect of the Bus Regulatory Reform Act on service to small communities and to explore adjustments to the law to preserve or replace essential service.

Specifically, the governors propose:

A revised abandoment procedure which includes prior notice to the states of a bus company's plans for route abandonment;

Close cooperation and consultation between the ICC and the states on Commission grants of new route authority; and

State regulation of scheduling when only a minimal level of service is offered to prevent carriers from intentionally discouraging passenger ridership.

The states are well equipped to act as information clearinghouses. Working with local communities, states can assist companies in identifying riders, juggling schedule and route structures, advertising, securing government and business cargo contracts, providing a subsidy to offset cost could promote establishment of new companies by providing tax benefits and and other assistance to reduce risks confronting interested entrepreneurs. A major impediment to ridership would be removed by guaranteeing consistent, reliable service.

Legislation (H.R. 4067, S. 1916) has been introduced to require advance notice to states of discontinuance or service reductions. The notice of intent would provide state officials with information not only on where a route termination is proposed, but would identify the number of passengers and amount of revenues derived in the past year. This information would prove invaluable to state planners in developing assistance programs for the affected services, or for recruiting new carriers to provide service.

The governors are not proposing enactment of cumbersome state requirements or re-regulation of the industry. We believe an orderly approach to regulatory reform is possible without complicated oversight or interference. While undertaking the admirable objectives of deregulation, it must be understood that maintenance of intercity bus transportation for rural areas is of critical importance to any locality. The preservation of service to these communities is imperative to continue to provide mobility for the elderly, young, handicapped and low-income passengers who have no other reasonable means of transportation available to them.

The opportunity to present the views of the National Governors' Association to your Committee for consideration is very much appreciated.

STATEMENT OF HON. EDWARD I. KOCH, MAYOR, CITY OF NEW YORK

I appreciate the opportunity to submit comments for inclusion in the record of your oversight hearings on the Bus Regulatory Reform Act of 1982 (Act). My observations will focus both on the impact of this Act on New York City and the implementation of the Act by the Interstate Commerce Commission (ICC).

The purpose of the Bus Regulatory Reform Act of 1982 is to reduce unnecessary and burdensome government regulation, thereby allowing greater flexibility of service and increased competition. Among other things, the Act reduces the ICC's ability to control entry of a carrier into markets and removes many Federal restrictions on operating authority.

While this new regulatory scheme was intended to address one set of problems, it has had an adverse impact on traffic congestion, air pollution and safety in New York City. I do not believe that this was the purpose of the Act. Further, I believe that most, if not all of the difficulties now facing the City of New York as a result of the reforms introduced by this legislation may be remedied without impairing the intent of the Act.

Two serious problems facing the City as a result of the regulatory reforms introduced by the Act are increased traffic congestion and air pollution. Our street system is experiencing the highest traffic volumes in history. As more motor common carriers of passengers (both buses and vans) have obtained authority from the ICC to operate on local streets within the city, the problems of congestion and air pollution have been aggravated. This is particularly true where these ICC certificated carriers select their own routes, bus stops and layover areas, as has generally been the case since the Act became effective.

New York City has traditionally been a hub of interstate travel, and consequently the focus of a large volume of interstate bus service. The impact of this interstate traffic on local streets has long been recognized. In 1947, a resolution passed by the City's land use planning board addressed the problems exacerbated by interstate travel. Traffic congestion in midtown Manhattan (at a level significantly lower than today's) was so acute as to be seriously detrimental to the safety, welfare and prosperity of the City and its inhabitants. One of the solutions proposed to address these problems, was the erection of a bus terminal outside of the midtown area to accommodate interstate bus traffic.

In 1950, the Port Authority of New York and New Jersey opened such a bus terminal at 42nd Street and Eighth Avenue, just outside of the midtown area. In addition to alleviating congestion problems, this central facility also serves to reduce air pollution. A new modern ventilation system, installed in the last few years, pumps exhaust fumes into the sky several hundred feet up, to be dispersed by the wind. Platforms are also enclosed so that passengers waiting for buses are not subjected to fumes.

Interstate buses are required by the City's traffic regulation to use an off street terminal, such as the Port Authority bus terminal, to pick up and discharge passengers. In 1982 alone, there were 1.8 million movements (buses entering or leaving the terminal carrying passengers for pickup and discharge in the terminal) by ICC certificated buses through this Port Authority Bus Terminal during which time a total of 53 million passengers were loaded and discharged. Six thousand two hundred bus movements took place on an average day in 1982, serving 175,000 passengers.

However, since the Act became effective in November of 1982, a growing number of buses have been granted authority by the ICC to pick up and drop off passengers on local streets, thereby undermining the City's attempt to address a serious local traffic problem by the use of a centralized bus facility. Indeed, just between the hours of 3:30 p.m. and 6:30 p.m. on the week night of November 3, 1983, 76 ICC certificated buses that do not use the Port Authority Bus Terminal were sighted leaving the City through the Lincoln Tunnel, one of several major arteries leading out of the City. These buses are operating under authority granted them by the ICC.

Section 6 of the Act specifically provides that the ICC shall issue certificates authorizing intrastate transportation on a route over which a carrier has authority to provide interstate transportation of passengers. The primary purpose of this provision, as stated in the Conference Report, No. 97-780 at p. 36, was to "remove the problem of 'closed door' intrastate policies on interstate operations;" i.e., a State's denial of, or failure to decide a carrier's application to provide service to intrastate passengers between points already being served by the applicant on an interstate basis.

When the ICC authorizes bus operators to provide intrastate transportation services within a city, it does not designate the local streets over which the service is to be provided. Consequently, large numbers of bus operators authorized by the ICC to provide intrastate transportation services within New York City load and unload passengers on such already crowded central avenues in Manhattan as Madison, Fifth, and Sixth in the Central Business District (defined as 34th Street to 59th Street; and in downtown Manhattan on Church Street and Broadway, south of Chambers Street. This overloading has contributed to local traffic congestion and pollution.

Bus volumes on the central avenues from 4 p.m. to 5 p.m., the peak evening hour, are currently as follows: Madison Avenue—220 buses, Fifth Avenue—200 buses, Sixth Avenue—160 buses. An even higher volume of traffic is carried on Fifth

Avenue—220 buses—during the 8 a.m. to 9 a.m. morning rush hour. These avenues are close to reaching their saturation points, if they haven't already. Church Street, which is open to one-way northbound traffic, is currently filled to capacity with 163 buses during the 8 a.m. to 9 a.m. morning rush hour, and Broadway, which is open to one way southbound traffic is currently filled to capacity with 117 buses during the 4 p.m. to 5 p.m. evening rush hour. These downtown streets are narrower than the midtown avenues and consequently have lower traffic capacities.

The problems created by the uncontrolled movements of ICC certificated motor common carriers of passengers are not limited to increased congestion. Certain ICC carriers, while themselves attempting to avoid congestion, use side streets which are typically narrower and are often in residential neighborhoods. Needless to say the residents of these streets are disturbed by the noise and safety hazards created by these buses.

Certain ICC certificated carriers that operate between Atlantic City and points within New York City go through local communities as well. This has also generated a good deal of complaints, particularly from residents in such parts of Queens as Bayside, Fresh Meadows, and Forest Hills.

In addition to disturbing residential neighborhoods, uncontrolled selection of routes by ICC certificated motor common carriers of passengers presents serious safety risks to the public. Certain of the highways within the City have been deemed by our Department of Transportation to be unsafe for large vehicles for structural as well as geometric reasons. While signs on these highways may prohibit use by commercial traffic, these signs are often disregarded by ICC certificated carriers. Since neither the ICC nor individual carriers have the intimate knowledge of the City's street system that we have, the City's assistance in selecting routing is essential.

The problems generated by the uncontrolled proliferation of interstate carriers entering the intrastate market go beyond the traffic, pollution and safety concerns touched upon above. These buses operate primarily during peak periods, competing with the existing public transportation services provide by the commuter rail, and public and private bus carriers, all of which already rely on Federal, State and local subsidies. This competition is hampering the joint effort by government on all levels to maintain both commuter and off peak hour services provided by these subsidized public and private carriers, and is therefore not in the public's interest.

If the ICC is to continue regulating intrastate transportation, it must do so with an understanding of the local situation, and in a cooperative effort with local government. Specifically, the ICC must be directed by Congress to recognize the physical limitations of our local roads. It must restrict bus traffic through residential areas, and take into consideration any significant adverse effect on existng public and private carriers that receive public subsidies.

Recognizing the unique traffic problems faced by the City the New York State legislature has required the State Department of Transportation to get route approval from New York City before designating a route in the City for buses certificated by the State. Congress should follow suit. I believe that the inclusion of routes designated by the City in ICC operating certificates is feasible and would go far in addressing the problems outlined above.

While Section 5 of the Act, in stating the National Transportation Policy, provides that it is the policy of the United States Government in regulating the modes of transportation subject to the Act, to cooperate with each State and the officials of each State on transportation matters, the provisions of the Act in no way foster this desired "cooperative spirit." The only means that the Act provides for input into the process is as a "protestant" (and even in this regard, the Act itself actually seems to contemplate protests by motor carriers of passengers only).

Even at such time that traffic experts in both the ICC and the City agree that certain avenues in the City are filled to capacity, under this Act the ICC must continue to grant intrastate operating authority to operators found to be "fit, willing and able," in complete disregard of local conditions, unless and until the City protests. There appears to be something fundamentally wrong if this is the cooperative process being provided to local government.

In addition to the detrimental effects of uncontrolled bus movements and the adverse impact on existing, subsidized public and private transportation services, the Act has generated other serious problems. As a direct result of the Act, there has been a proliferation of carriers following routes that take them outside the City through New Jersey or Connecticut for a short distance merely to avoid State and/or local jurisdiction. It has come to our attention that such carriers as Carol Coaches, Inc., (d/b/a Eagle), Enterprise Transit Corp. and Academy Bus have engaged in the practice. These carriers serve only New York City passengers and would have been subject to New York City jurisdiction prior to the passage of the Act.

I am sure that Congress did not intend, in eliminating the "closed door" policies, to accommodate these pseudo interstate operations. Rather, there was concern that the viability of interstate motor common carriers of passengers of the type presently under ICC jurisdiction was at stake. While Congress has recognized that "interstate carriers often need intrastate passengers to make their overall routes profitable," (see Senate Report 97-411 at p. 9 and House Report 97-334 at p. 34), these pseudo interstate carriers service intrastate passengers only. Their intrastate service does not help them provide any identifiable interstate service. The ICC is currently required by the Act to exercise jurisdiction over these operations. The Act should be amended to give the applicable locality concurrent jurisdiction over the entry of these carriers into the intrastate bus market.

There is one final issue that I would like to raise. I believe that the Act does not preempt the City's regulatory authority to require buses having ICC authority to come to it for approval of proposed bus stops and layover sites on local streets, as do State and City authorized buses. These traffic management tools have traditionally been used by the City to reduce traffic congestion and to promote safe, adequate, economical and efficient transportation, and the use of the finite availability of street space, and can clearly be exercised without impairing interstate commerce.

Since the passage of the Act, ICC certificated buses that pick up and discharge passengers on local streets can be found laying over throughout our central business district as they wait prior to their first stop. Often they layover for hours in the most congested areas, creating severe traffic and pollution problems.

The Port Authority of New York and New Jersey has 250 off street parking spaces in lots located between 30th Street and 42nd Street. These spaces are currently leased by ICC certificated buses who lay over in these facilities until they are scheduled to make pickups at the Port Authority Bus Terminal. These operators would have little or no incentive to continue leasing this off-street space if they thought that they could park, uncontrolled, on local streets.

There is a clear need for the City to control bus stops as well. Presently such ICC certificated carriers as Eagle, Academy Bus, Vanguard Interstate Tours, Inc., and Drogin stop anywhere they please in response to people who flag them down in the street. This also creates safety hazards and adds to traffic congestion and pollution problems.

It is the City's opinion that it is not precluded by the Act from exercising reasonable forms of local regulation such as requiring ICC certificated carriers to come to it for bus stop and layover approval. However, the cooperation of the ICC is clearly needed to assure compliance with local regulations by ICC certificated bus operators. Specifically, the certificate issued by the ICC should make it clear that the grant of operating authority is premised upon the carrier's compliance with local requirements.

In summary, the Bus Regulatory Reform Act of 1982 and its implementation by the Interstate Commerce Commission is having certain serious detrimental impacts upon the City of New York. The uncontrolled movement of buses providing intrastate bus services pursuant to ICC certification has exacerbated traffic and air pollution problems, raised safety issues, created problems in residential neighborhoods, and has had an adverse effect on existing, publicly subsidized, public and private transportation services.

The ICC should be directed by Congress to take these local concerns into account when considering an application for intrastate service. Further, the ICC should be required to include in its grant of operating authority, routes designated by the City of New York where a motor common carrier or passengers is providing an interstate transportation service within the City.

The Act should be amended to give New York City concurrent jurisdiction over carriers that serve only New York City passengers and that currently avoid local jurisdiction by following a route that is outside the City for a short distance.

If the City is to effectively enforce local regulations then the ICC's cooperation is needed in requiring ICC certificated carriers to obtain City approval of bus stops and layover sites. The certificate issued by the ICC should make it clear that the grant of operating authority is premised upon the carrier's compliance with local requirements.

Thank you for giving us the opportunity to comment on this important matter. My staff continues to remain available to you to further document New York City's concerns.

STATEMENT OF JAMES A. CRAWFORD, ACTING ASSISTANT COMMISSIONER, NEW JERSEY DEPARTMENT OF TRANSPORTATION

Mr. Chairman, I am James A. Crawford, acting assistant commissioner of transportation for New Jersey. I am appearing here today on behalf of Commissioner John P. Sheridan, who is also the chairperson of the board of New Jersey Transit, the statewide public transportation agency. I appreciate the opportunity to testify before the oversight committee on the impact of the Bus Regulatory Reform Act of 1982. The thrust of my testimony will focus on the Interstate Commerce Commission's implementation of the "Bus Act". The ICC is ignoring important provisions of the act which Congress incorporated for the specific purpose of addressing New Jersey's unique busing environment.

Over two years ago, the House of Representatives initiated the legislative effort which culminated in the enactment of the "Bus Act". While the effort was still in the formation stages, the State of New Jersey went to the House Committee on Public Works and Transportation and provided information on the potential adverse effects that bus deregulation would have on the State. Specifically, the State alerted the House committee to the presence in New Jersey of two unique busing environments which, if subjected to deregulation, would shortly pose public interest problems. First, there was New Jersey's extensive interstate commuter bus operations. These bus operations constitute the heartbeat of New Jersey's commuter transportation service. Second, there was the regular route bus service to Atlantic City, a bus market that was growing rapidly and fast reaching the saturation point. At that time, Atlantic City bus traffic was already creating severe bus congestion problems on the roadways to Absecon Island, the barrier beach strip on which Atlantic City is located. The House of Representatives responded to the State's concerns by placing safeguard provisions in the "Bus Act" which covered the aforesaid problem areas. The State was encouraged by this development.

A few months later, when the Senate considered the "Bus Act" proposal which the House had passed, New Jersey once again contributed to the effort. While the Senate made significant changes in the House bill, the thrust of the safeguards New Jersey sought remained in the legislation.

I am here to tell you that in spite of what Congress did, the State of New Jersey's worst fears have been realized. The State has experienced serious difficulties in both interstate commuter bus service operations and regular route service to Atlantic City since the ICC has implemented the "Bus Act". These problems are not a result of flaws in the act, but rather the ICC's disregard for such safeguard provisions. We want this committee to know about the situation. If congressional intent is not enforced, New Jersey will face a health and safety crisis as a result of unregulated buses.

To fully understand why Congress included the New Jersey provisions in the act, this committee must understand the nature of bus operations in New Jersey.

Lying as it does between New York and Philadelphia, New Jersey is home to tens of thousands of commuters who daily ride intercity carriers to and from work. Some 300 carriers hold ICC certificates, with most providing daily commuter and charter service. The commuter market is split between State-owned carriers (60 percent), and independent privately-owned carriers (40 percent).

Many of these State-supported and independent carriers also provide local, urban-type intrastate transit service. Intrastate service is an integral part of the public transportation network which connects New Jersey's urban centers to each other and to the surrounding suburban locations. The continued provision of essential urban bus services is directly linked to the fiscal soundness of commuter bus service, since commuter bus operations help to defray the costs of unprofitable urban routes. Without viable commuter bus service, many carriers would have to abandon intrastate operations. Such actions would undermine the State's commitment to revitalize the economically depressed urban centers of New Jersey, and would leave thousands of urban residents without essential transportation.

Whereas intrastate urban routes are the backbone of the local public transportation system, commuter bus service is the primary public transportation mode available to New Jersey citizens who work in Manhattan or Philadelphia. Over 300,000 commuter bus trips are made daily which otherwise would have to be made by automobile over a highway system which is at, or near full capacity.

Commuter service in New Jersey is unique because of the numerous operators and the intense competition. Unlike long-haul intercity carriers, the commuter bus industry is not dominated by a few major carriers. With park and ride opportunities and parallel bus routes within reasonable distance, competition for commuter patronage is strong. Many areas have several private operators competing among themselves as well as against the State-owned carriers. Riders do not lack options as to the bus company they elect to patronize. Moreover, the profitability of commuter bus operations is at best marginal.

Unlike the long haul intercity service, commuter bus operations depend on strong ridership at only two points during the day, during the morning and evening rush hour periods. Commuter service must build up a steady clientele in order to be profitable. Indeed, reflective of the tenuous nature of profits in this area is the fact that in the last year, three commuter services have succumbed to competitive pressures and ceased operations, Manhattan Transit Company, Somerset Bus Company and Lincoln Transit. Certain other carriers have only been able to sustain their operations through State and Federal subsidies.

As for those private bus companies in New Jersey that do manage to operate at a profit, they do so through highly efficient operations. Moreover, while a select few of these carriers have been able to maintain reliable and healthy commuter operations over a considerable period of time, they remain sensitive and vulnerable to changes in ridership. In short, commuter bus service in New Jersey is highly competitive. It is a finite market which requires special protection because of its importance to the area's economy.

When Congress considered the Bus Regulatory Reform Act, it recognized the unique nature and the need for continued vitality of interstate commuter bus operations. Specifically, it incorporated a provision making it a national priority to "provide and maintain commuter bus operations." There was good reason for establishing this priority. Healthy and reliable commuter bus service is essential for insuring the mobility of our Nation's work force. This holds especially true in large metropolitan areas where a strong commuter bus network enables workers in surrounding suburbs to get to their jobs in urban centers.

New Jersey, more than any other place in the Nation, relies on interstate commuter bus operations. The State has worked over the years to insure that this essential service is provided in a reliable and stable fashion.

It is for these reasons that the State was able to persuade Congress that additional safeguards were needed in this area. Accordingly, at the special request of New Jersey, Congress developed a commuter bus test and a public interest test which applies to excessive regular route service being operated in New Jersey.

The State of New Jersey is concerned that in implementing the "Bus Act" the ICC has ignored congressional intent. The ICC has liberally authorized several new entrances into the commuter bus market in spite of strong state protest. These entries, whose service is often concentrated during profitable peak periods, jeopardize the stability of existing carriers, who provide a total service, beyond peak periods.

An instance in point is the application of Caravan Bus Lines, Inc., Sub. No. 15. In this case, Caravan made application over a substantial portion of the regular route service of a long existing carrier, Lakeland Bus Company. After assessing the impact, the State of New Jersey joined the affected carriers in protesting to the ICC. Nevertheless, the ICC approved Caravan's application, and in the process, it treated the State's protest in a cursory manner. This action reflects the fact that the procedures which the ICC adopted to implement the Bus Act do not provide for significant input from an affected State as required in the national transportation policy of the act. The Caravana application represents one of several similar applications of carriers seeking to provide interstate commuter bus service in New Jersey which may have an adverse effect on the stable commuter bus network.

The ICC's granting of authority to Caravan set a dangerous precedent. It signaled that the ICC is not interested in invoking the safeguards set up to protect commuter bus service. The Commission is bent on deregulating the industry regardless of the type of operation or the likely adverse impact. Further decisions such as the Caravan case threaten the future of the entire intercity commuter bus industry. In the end, the public will be the ones to pay for such myopic policy.

New Jersey's other unique problem regarding the provision of bus service centers around the market to Atlantic City. Accompanying the explosive growth of the hotel and casino industry in Atlantic City, there has come an equally explosive growth in bus operations providing service to these casinos. From 1980 to 1982 alone, the number of casino buses entering the city increased from 78,000 to over 300,000. This constituted a staggering percentage increase of over 300 percent. All vehicular traffic must funnel onto bridges for ingress to and egress from Atlantic City. Needless to say, in light of this convergence of traffic, it is easy to see how the flood of buses has created tremendous congestion in the Atlantic City area.

For its part, the State has addressed the bus traffic to and from Atlantic City in a reasonable manner. Its regulatory process has evolved in response to the area's changing health and safety needs. The best example of this response is the creation of the Atlantic County Transportation Authority, a special local regulatory authority empowered by the State to deal specifically with Atlantic City's traffic problems. The area needs to be monitored on the local level because of its unique character.

The State is concerned that the ICC is disregarding the clear meaning of the language in the Bus Act which applied to regular route transportation of passengers provided in one state which is the nature of a special operation. In recognizing the unusual circumstances confronting New Jersey, Congress responded by purposefully exempting from the purview of the ICC any regular route service in the nature of special operations. The report from the House Committee on Public Works and Transportation on the Bus Act clarifies the limitations placed upon the ICC with regard to interpreting this language. The committee's report made explicit reference to Atlantic City bus service. This section of the law remained unmodified during Senate consideration and was incorporated without any change in the final act.

The congressional intent, which is so explicitly laid out in the House committee report, has not been the focus of the ICC's attention. The case of Olympic Trails Bus Company, Inc., MCC-138146 Sub. 4, demonstrates this point. Here applicant ostensibly sought a grant of authority to provide a regular route interstate service between points in New York, New York and Atlantic City. Along with this underlying route, it also requested authority to provide service to all intrastate intermediate points. A fair reading of the application indicated that the carrier planned a route where 95 percent of its service would be in New Jersey. Moreover, the application initially included references to casino packages which would be applicable to patrons riding the applicant's buses to the Atlantic City casinos. This type of operation would clearly fit the bus act definition of a regular route in the nature of a special operation.

The State of New Jersey protested this application. Unfortunately, the ICC once again summarily denied the State's protest. In the process, it opened the flood gates for carriers such as Olympic, which desire to circumvent State regulatory authority through subterfuge applications. This was, in fact, one of New Jersey's main concerns during the proceedings of the passage of the Bus Act.

Since the Olympic decision, a number of other carriers which either already possess interstate regular route authority to Atlantic City or are seeking such interstate authority, have petitoned the ICC for intrastate authority as well. For example, applications have been filed by Cape Transit, Pocono Mountain Trails, Inc., C.L.D. Transportation Company, just to name a few. I have a more extensive list available which I shall submit for the record. The ICC continues to pay little heed to the State's concerns over these applications. New Jersey has continued to file protests to these applications in an attempt to get the ICC to recognize the preemptive language in the Bus Act.

At present, the New Jersey Department of Transportation has authorized over 30 carriers certified to provide regular route intrastate service from various points in New Jersey to Atlantic City casinos. These carriers operate more than 80 authorized routes. However, of the anticipated 300,000 buses that will travel to Atlantic City in 1983, the majority will originate out of State. Consequently, they will come under the jurisdiction of the ICC. Our fear is that if the Commission does not enforce the preemptive language contained in the act, these companies will receive authority to service areas along routes in New Jersey to Atlantic City without assessing the health and safety impact. In the case of Atlantic City, New Jersey is in the best position to regulate bus operations servicing points in the State. Congress recognized this when it drafted the "Bus Act". It's time the ICC recognized what Congress saw fit to legislate.

Currently, New Jersey is examining its future with regard to bus transportation and its regulation. The problems we are now having with the Interstate Commerce Commission's implementation of the "Bus Act" have prompted the State to look at other regulatory alternatives. We think that either a joint board or the Washington Area Metropolitan Transit District (WMATD) are concepts that may hold a solution to New Jersey's unique problems. Essentially, after reaching agreement with New York and Pennsylvania, we may ask Congress to exempt interstate bus service from the Interstate Commerce Act where the majority of the riders originate in New Jersey. However, while we see this as a potential long-term answer to our problems, our immediate concern is that the ICC be directed to pay heed to congressional intent embodied in the "Bus Act" and enforce the existing safeguard provisions.

STATEMENT OF BERNARD F. FLYNN, JR.

To the Honorable Chairman and members of the Committee, my name is Bernard F. Flynn, Jr. I reside at 156 Laurel Hill Road, Mountain Lakes, New Jersey, these past 40 years.

I have practiced law exclusively before the Interstate Commerce Commission since 1935 and consequently am familiar with the practices and development of the law since 1935 to date.

In 1948 I organized a bus company, known as Lakeland Bus Lines, Inc., to afford myself and Morris County neighbors more adequate transit between New York City and the lakeland area of Morris County, in which I reside, from an initial operation of 5 buses to the present operation of 73. We aided in the growth of the area, and the area's growth aided us.

Expansion of our routes and service has permitted more and more people to locate in New Jersey who work in New York, so that our operation today is that of a commuter bus line, handling 7000 passengers per day. It is vitally essential to the commuter, to maintain their jobs, that they receive without fail precise timely pick-ups, express service, and certainty of on-time arrivals in New York, and equally important to the businesses in New York City.

I address you today with the credentials of 48 years of practice before the Interstate Commerce Commission, and 35 years as the founder and President of one of the few independent nonsubsidized commuter bus operators in the New York-New Jersey territory.

This territory has experienced the bankruptcy of every commuter railroad facility; in New Jersey, the West Shore Railroad, The Erie, Lackawanna, Penn Central, Lehigh Valley, Rahway Valley, Jersey Central, the Hudson & Manhattan tube crossings and, finally, Conrail. In New York, the New Haven, Long Island, and New York Central railroads. Public authorities have had to be established to take over and operate the bankrupt facilities. In New York, it is the Metropolitan Transportation Authority; in New Jersey it is the New Jersey Department of Transportation and its operating entity, NJ Transit. These agencies have inherited plant structures in horrible condition through years of deferring maintenance and investment in plant structures. Existing services are maintained only through public subsidy, Federal and State, and bond issues to supplement inadequate fare structures.

The task of continued maintenance of service is in the hands of these public authorities, aided by State and Federal funds, and a few independent operators, such as ourselves. We are few, for only in the past few years Transport of New Jersey failed, even with subsidies, as did Somerset Bus Lines, Manhattan Transit, Intercity Bus Lines and its subsidiary companies, and Lincoln Transit, all of whose operations were taken over by the State agency, NJ Transit.

For brevity I am going to assume that your Committee has an awareness of the critical conditions prevailing in transit in the New York-New Jersey area. I am sure the Chairman, representing New Jersey, has such understanding, but I submit that in most of the United States, other than a few principle cities, the word "commuter" is an unknown word, and commuting an unknown experience, and, other than the New York-New Jersey area, the principal cities where commuting exists are controlled by State agencies which are personally familiar with the problems of that area.

The Port Authority terminal is the terminal for all commuter bus lines to and from New Jersey and the City of New York, and it is located in New York state, and even though it is connected by ramps directly into the Lincoln Tunnel, these few feet in the City of New York places the entire New Jersey operation under the jurisdiction of the Interstate Commerce Commission, which processes entry applications by a Review Board of three persons in Washington, D.C., which has jurisdiction over the entire 50 states.

The Commission's attitude is already widely known as determined in every way possible to deregulate both the trucking and the bus industry, even advocating the sunsetting or death of their own Commission. To do so they choose and seize upon certain language in the Bus Act to justify broad rule-making procedures to achieve these purposes.

Under the Bus Act, pertinent here, is their hasty adoption of rule Ex Parte 55, sub 56, hurriedly enacted to become applicable the date the Bus Act became effective, November 19, 1982.

Lakeland is now involved in a proceeding before the Commission involving the entry application of a company known as Caravan Coach Lines, Inc., in which its protest is joined by over some 100 public witnesses, the United Transportation

Union, Community Bus Lines, NJ Transit, and the Department of Transportation of the State of New Jersey.

While there is a request for denial of the application by protestants, protestants and the public point out that at the very least the Commission should follow the traditional practice of setting the matter down for a public oral hearing. The Commission denied such requests although heretofore, except in most inconsequential applications, any proposals for new or changed routes in the northern New Jersey area were set down for Joint Board proceedings at public hearings, and this was done with the recognition that the authorities in the immediate affected areas, and the public therein involved, should have the opportunity of hearing the proposals and expressing their opinions as to the matters involved in the issues that presented themselves.

Incidentally, the application of Caravan Coach Lines, Inc. is the first coming before the Commission under the new act, and in law is known as a case of first impression, and the regulatory agency, such as the Interstate Commerce Commission, would be presumed to be sufficiently interested in the proper administration of the act to set the matter for hearing so as to develop a complete record of all pertinent facts helpful in proper determination of the issues.

However, only by filing an action in the United States Court of Appeals For the Third Circuit by Lakeland Bus Lines, and joined in by the New Jersey Department of Transportation, was the Commission's order granting the application stayed. The Commission further admitted, in part, that its procedure under Ex Parte rule 55, sub 56, denied due process, and they made a slight amendment to the rule, permitting protestants 10 days to file rebuttal statements.

In my opinion this was only done to more carefully re-write an order granting the application, using their customary "boiler plate" language that "under all of the facts and evidence in the record we conclude the application should be granted", thus requiring no more than a request for authority, and based only upon their presumption of fitness and ability they require only that a certificate of insurance in the minimum amount required by the Commission be filed by the newly certificated applicant.

In the declaration of policy of the Congress, the Congress advised clearly that in its administration of the act that it be administered in conformity with the criteria laid down in the policy of the Congress. The Commission chooses to ignore it for in no way can the issues be examined into except by inquiry into an examination of the evident facts needed to be obtained including, of course, an opportunity of the public affected to be heard.

Again, to be brief, this becomes apparent when one reads the criteria set down in the national transportation policy set forth in the act, none of which the Commission has inquired into, or apparently cares to inquire into, and yet we submit should be controlling upon the Commission in processing an entry application, certainly such as this, which concerns the largest commuter area in the entire world.

Our concern, and that of the State of New Jersey, is to continue to render adequate service to the public, for it is a difficult burden for all of us under existing circumstances. It will be an impossible one if the Commission, deliberately ignoring the national transportation policy, which it is doing, should permit unrestricted entry to any and all persons just for the asking. To do so would make entry the "regulatory charade" which the Senate committee in its hearings pointedly warned was not the intent of the legislation.

These oversight hearings are timely, for may I suggest that the Regulatory Reform Act of 1982 carried forward administrative philosophy urged on the Congress that began with the deregulation of the airlines in 1978, and the trucking industry in 1980, and with it the concept of bringing about increased competition in these fields.

Truck operation is entirely dissimilar to passenger traffic, so comparisons cannot be made.

Increased competition and ease of entry on airline passenger movements is now becoming apparent through the failures of airlines, and near failures of those left.

The bus industry also has different characteristics. Basically, only two carriers exist and dominate the intercity system throughout the nation—Greyhound and Trailways—with limited competition in some areas by regional carriers. The bulk of bus operations is intracity or intrastate passenger service, of no interest to us here.

The next largest interstate operation, and the largest of all, is that of special and charter operations conducted throughout the United States. In this operation, it is all handled under special arrangements or contracts and increased competition can but divide the traffic amongst the existing operators, and if that is the philosophy of the Congress, well and good, but in each instance such operators, when operating their equipment, operate it under contracts that cover the price of a fully loaded bus, but in the commuter operation, it requires exact timely service and operating time performance in peak periods only of 1½ hours in the morning and 1½ hours at night, with the equipment and work force idle the balance of each day, but it nevertheless must be paid for, and to permit competitive or duplicate service on these routes and in these operations can but dilute the traffic on these routes, with the loss of traffic and revenue that will destroy the ability of existing carriers to perform their functions.

When the bus act was adopted by the Congress with its provisions applicable to the 50 states, few of the legislators could hardly be mindful of commuter operations, as they did not exist or affect their constituents, but the Congress did safeguard, in part at least, regular route commuter operations by requiring that entry be consistent with the public interest.

While interstate commuter service is found only in isolated areas of the nation, but principally and most vitally affected in the New York-New Jersey operation, the people of this area are also citizens of the nation and are entitled to considerate administration of the reform act in consonance with their needs.

The essential change in the 1982 act over that of the Motor Carrier Act of 1935 results in removing the burden of proof upon the applicant under the former act of proving public convenience and necessity, and placing the burden now upon protestants to show that the granting of an application will not be in the public interest.

To do this, protestants and the public must be afforded the opportunity at a public hearing. This does not mean that the Commission must adopt a practice of assigning all entry applications to oral public hearings, but only those where the public interest is involved, and particularly, if any are ever to be heard, certainly in this present case of first impressions under the new act, in the world's largest commuting area.

This should be apparent if we believe we are a democracy, and are governed by the consent of the governed.

May I suggest that now, before irreparable damage is done, your committee advise the Commission that the policies you have enumerated to guide that Commission are not idle words, and that the Commission, which is an agent of the Congress and not the Executive Department, shall be expected to observe such admonitions so as to adequately and effectively protect the public interest, which interest in the New York-New Jersey area can only be accomplished through public oral hearings.

I am available to answer any questions that may be asked.

STATEMENT OF FRANCIS B. FRANCOIS, EXECUTIVE DIRECTOR, AMERICAN ASSOCIATION OF STATE HIGHWAY AND TRANSPORTATION OFFICIALS

On behalf of the state departments of highways and transportation that constitute the American Association of State Highway and Transportation Officials, I am pleased to offer the Committee testimony regarding the impacts of the Bus Regulatory Reform Act of 1982.

AASHTO followed the events leading to the passage of the Act very closely and had recommended that a four-year transitional period be made an integral part of any federal effort to deregulate the industry. Upon passage of the Act, through our Task Force on Intercity Bus the Association initiated an effort to coordinate the collection of uniform information from the states in order that we might assess the impact of the legislation. We believe the Congress acted wisely in providing for annual oversight hearings through 1985, and hope that information from our monitoring efforts will be of use in these hearings.

We presented testimony on behalf of AASHTO in June before the Motor Carrier Ratemaking Study Commission, and have received additional information since then which we would like to report to you today.

We have coordinated our monitoring effort with the National Association of Regulatory Utility Commissioners. The information we are reporting to you today represents the results of two surveys we conducted this year.

Our first survey was conducted in June and we have received a few updates on the information since then. A total of 40 states have responded to this survey which sought to quantify some of the impacts of the Bus Act. The survey was limited to changes in regular route services. We anticipated there would be substantial changes in charter services, but have concentrated on regular route changes, since these will have the greatest impact on individual travel needs.

Turning first to the area of abandonment of service, we have identified 480 communities in 24 states which have lost intercity bus service. In Michigan, we thus far have 51 such communities. Another 249 communities in seven states have pending discontinuances; Michigan is not on this list. The vast majority of these communities are rural. We have also identified an additional 280 communities in 18 states which have lost 50 percent or more of their regular route service, including some for Michigan. These figures may substantially underestimate the number of communities which have lost service since in some cases communities have simply been deleted from timetables or have had service times deleted from timetables which results in de facto abandonment. State-by-state tables which accompany our testimony provide greater detail on these changes.

We are aware of 11 states which have used federal funds available from the Section 18 program of the Urban Mass Transportation Act to assist intercity bus operations and four states which have provided state financial assistance for intercity bus. Michigan has had a comprehensive intercity bus assistance program since 1976. All of these assistance programs were in effect prior to enactment of the Bus Regulatory Reform Act of 1982. While the Section 18 program permits funds to be used for intercity bus service, we believe there is very limited potential for the program to support intercity bus services. The program as now established is simply too small to meet the demands of all nonurbanized public transportation needs.

We also requested information on communities receiving new or replacement intercity bus service as a result of the relaxed entry standards provided in the Act. Approximately 100 communities have gained new services since November 19, 1982, as reported by ten states. Another 60 communities in nine states have had another carrier provide replacement service to areas which would otherwise have lost service. In Michigan, new service has been approved over three new routes.

A second survey was conducted in August and September to assess some of the actions being taken by states following the Bus Act. The findings of that survey describe the actions which have taken place in the states to respond to the impacts of the Bus Act including state legislative actions, public information programs, studies and data collection and financial assistance. Responses were received from 48 states and the District of Columbia. The full report is attached to our statement.[1]

We would also like to submit for the record a report on "Deregulation of the Transportation Industry" which has just been completed by a Task Force of our AASHTO Standing Committee on Planning. It reviews the impacts deregulation of each of the modes had had on the U.S. transportation system. While our AASHTO Policy Committee has not taken action on the recommendations included in the report, we believe the report will be of interest to members of this committee.

At a meeting of our Policy Committee conducted earlier this month, we unanimously adopted the following position relative to intercity bus:

AASHTO recommends that federal financial assistance be provided to respond to the impacts of the Bus Regulatory REform Act of 1982.

Although existing programs such as the Section 18 program of the Urban Mass Transportation Act permit funding of intercity bus services, these programs were not specifically designed for intercity bus purposes. If an existing program, such as the section 18 program, is to be used to respond to the impacts of the Bus Act, then funding should be over and above that currently being provided and program requirements inappropriate for intercity bus needs should be waived.

Prime responsibility for administration of the program should rest with the states.

In conclusion, AASHTO intends to continue to monitor the impacts of the Bus Act. We believe the full story may not be known for two to three years. However, we recommend that federal financial assistance be provided to allow time for decisions on whether some of the marginal services should be continued. This would be in line with treatment provided to the rail and aviation modes when they were deregulated.

We would be pleased to provide such further information as may be needed.

Thank you.

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[1] The attachments referred to have been retained in the committee files.

NUMBER OF COMMUNITIES WHERE INTERCITY BUS SERVICE HAS BEEN REDUCED BY 50 PERCENT OR MORE SINCE NOV. 19, 1982

State	Population group				Total
	Under 5,000	5,000 to 25,000	25,000 to 50,000	over 50,000	
Alabama	13	8	1		22
Alaska					0
Arkansas	24	2		3	29
Connecticut				1	1
Delaware					0
Idaho					0
Illinois	5				5
Iowa	8	1			9
Kansas	1				1
Kentucky	18	15	1		34
Louisiana	36	7	1	3	47
Maine	2	4			6
Maryland					0
Massachusetts					0
Michigan					0
Minnesota					0
Mississippi					0
Missouri	18	6		1	25
Nebraska					0
Nevada		1			1
New Hampshire					0
New Jersey					0
New Mexico					0
New York					0
North Carolina	1	2			3
North Dakota					0
Ohio	6	3			9
Oregon	28	3	2		33
Pennsylvania					0
South Dakota					0
Tennessee	15	2	1		18
Texas					0
Utah					0
Vermont					0
Virginia	11	1			12
Washington	14	1			15
West Virginia	7	2		1	10
Wisconsin					0
Wyoming					0
Total	207	58	6	9	280

NUMBER OF COMMUNITIES LOSING ALL INTERCITY BUS SERVICE SINCE NOV. 19, 1982

State	Population group				Total
	Under 5,000	5,000 to 25,000	25,000 to 50,000	Over 50,000	
Alabama					0
Alaska					0
Arkansas	7				7
California [1]					
Connecticut	1	4	4	1	10
Delaware					0
Idaho	12				12
Illinois [1]	62	8	2		[2] 72
Iowa	59	3			62

NUMBER OF COMMUNITIES LOSING ALL INTERCITY BUS SERVICE SINCE NOV. 19, 1982—Continued

State	Population group				Total
	Under 5,000	5,000 to 25,000	25,000 to 50,000	Over 50,000	
Kansas	2				2
Kentucky	28				28
Louisiana					0
Maine	11	1			12
Maryland	2	1	1		4
Massachusetts					0
Michigan	30	10	6	4	50
Minnesota	35				35
Mississippi					0
Missouri	16	1			17
Nebraska					0
Nevada	3	1			4
New Hampshire					0
New Jersey					0
New Mexico					0
New York	2				2
North Carolina	21	3			24
North Dakota					0
Ohio	30	9	1		40
Oregon [1]	5	1			6
Pennsylvania [1]					
South Dakota	4				4
Tennessee	13				13
Texas [1]					
Utah	7	3			10
Vermont	1				1
Virginia	37	2			39
Washington					0
West Virginia	17	6	2		25
Wisconsin [3]		1			1
Wyoming					0
Total	405	54	16	5	480

[1] See list of pending abandonments.

[2] 15 of these communities were deleted from schedules without notice.

[3] 34 communities had service terminated on Oct. 1, 1982.

NUMBER OF COMMUNITIES GAINING NEW REGULAR ROUTE SERVICE SINCE NOV. 19, 1982

State	Population group				Total
	Under 5,000	5,000 to 25,000	25,000 to 50,000	Over 50,000	
Alabama					0
Alaska					0
Arkansas	[1]33	4	2	1	[1] 40
Connecticut					0
Delaware					0
Idaho					0
Illinois	3	3	1		7
Iowa					0
Kansas					0
Kentucky	3	1			4
Louisiana					0
Maine					0
Maryland		1			1
Massachusetts					0
Michigan	10	3	1	4	18
Minnesota					0

NUMBER OF COMMUNITIES GAINING NEW REGULAR ROUTE SERVICE SINCE NOV. 19, 1982—Continued

State	Population group				Total
	Under 5,000	5,000 to 25,000	25,000 to 50,000	Over 50,000	
Mississippi		3			3
Missouri					0
Nebraska					0
Nevada					0
New Hampshire					0
New Jersey					0
New Mexico					0
New York	2		1		3
North Carolina					0
North Dakota					0
Ohio		1	1	7	9
Oregon	5				5
Pennsylvania	(2)				
South Dakota					0
Tennessee					0
Texas					0
Utah					0
Vermont					0
Virginia					0
Washington		1	3	1	5
West Virginia	1				1
Wisconsin [3]	11	8	4	4	27
Wyoming					0
Guam	1	1			2
Total	69	27	14	18	128

[1] All service terminated June 1983 on 26 of these routes.

[2] Unknown.

[3] 19 communities gained new service on Oct. 1, 1982.

NUMBER OF COMMUNITIES RECEIVING REPLACEMENT REGULAR ROUTE SERVICE SINCE NOV. 19, 1982

State	Population group				Total
	Under 5,000	5,000 to 25,000	25,000 to 50,000	Over 50,000	
Alabama	6	1			7
Alaska					0
Arkansas					0
Connecticut					0
Delaware					0
Idaho	2				2
Illinois					0
Iowa	27	3	1	2	33
Kansas	4				4
Kentucky					0
Louisiana					0
Maine					0
Maryland		2			2
Massachusetts					0
Michigan		1	1	1	3
Minnesota					0
Mississippi					0
Missouri					0
Nebraska					0
Nevada					0
New Hampshire					0

NUMBER OF COMMUNITIES RECEIVING REPLACEMENT REGULAR ROUTE SERVICE SINCE NOV. 19, 1982—Continued

State	Population group				Total
	Under 5,000	5,000 to 25,000	25,000 to 50,000	Over 50,000	
New Jersey					0
New Mexico					0
New York	2				2
North Carolina					0
North Dakota					0
Ohio					0
Oregon	4	2			6
Pennsylvania					0
South Dakota				1	1
Tennessee					0
Texas					0
Utah					0
Vermont					0
Virginia					0
Washington					0
West Virginia					0
Wisconsin [1]					0
Wyoming					0
Total	45	9	2	4	60

[1] 18 communities received replacement services on Oct. 1, 1982.

Number of communities with pending applications for termination of service since Nov. 19, 1982

Alabama	21
California	[1] 90
Illinois	3
Oregon	32
Pennsylvania	22
Tennessee	23
Texas	58
Total	249

[1] Plus.

STATEMENT OF BRUCE HAGEN, PRESIDENT, NORTH DAKOTA PUBLIC SERVICE COMMISSION

The North Dakota Public Service Commission is a constitutionally created agency that is charged with, among other things, the responsibility of regulating intrastate transportation services. The Commission also represents North Dakota's transportation interests at the interstate level. It is for these reasons that I am compelled to submit these comments relative to the Bus Regulatory Reform Act of 1982.

North Dakota is a highly rural state. It has a surface area of 70,665 square miles and had a 1980 population of 652,437. With less than ten residents per square mile, the state and its residents are highly dependent on transportation for personal mobility and commerce.

Greyhound Lines, Inc. is the only major interstate bus carrier operating in North Dakota. Both of Greyhound's North Dakota routes are interstate in nature, one operating between Fargo, ND, and Winnipeg, Canada, on Interstate Highway I-29 and the other traveling from Fargo to Beach, ND, on Interstate Highway I-94 as a part of its Chicago to Seattle route. The level of service provided by Greyhound has been and continues to be generally satisfactory.

Despite this satisfactory level of service, this Commission and the citizens of North Dakota (see attached editorial) are highly concerned with the ratemaking freedom granted carriers such as Greyhound by the Bus Regulatory Reform Act of 1982. Our concerns are related specifically to Section 17 of the Act.

Section 17 of the Act states that ". . . there shall be a rebuttable presumption that any rate, rule, or practice applicable to transportation provided by a motor common carrier of passengers entirely in one State imposes an unreasonable burden on interstate commerce if the Commission finds (i) that such rate, rule, or practice results in the carrier charging a rate for such transportation which is lower than the rate such carrier charges for comparable interstate transportation of passengers . . ."

In other words, interstate rates are deemed to be reasonable. Conversely, lower intrastate rates are deemed unreasonable and subject to upward revision. This is the case despite the fact that the Interstate Commerce Commission is all but inactive in terms of reviewing the reasonableness of interstate rate filings.

Filing rate revisions is a technicality for carriers. Carriers (and admittedly the market place) therefore determine what level of rates is reasonable. On the national level and in competitive markets this may, in fact, be an acceptable means of setting rates. Such is not the case in North Dakota. Greyhound's passenger market in North Dakota is virtually void of competition. Regulation is therefore necessary to assure reasonable rates.

It is true that Section 17 of the Act states that the interstate-intrastate rate comparison is a "rebuttable persumption." I am unaware, however, of a single instance since the passage of the Act in which the ICC ruled in favor of lower intrastate rates. They handle such complaints just as they do the carriers' initial interstate filing seemingly automatic in favor of the carrier.

North Dakota's intrastate rates via Greyhound are admittedly below Greyhound's North Dakota interstate busing fares. It is also true, however, that Greyhound generated a North Dakota operating ratio of 99.5 in 1982; its interstate ratio was 100.4. The North Dakota Public Service Commission did not disallow or even temporarily suspend a single Greyhound intrastate rate action in 1982. Greyhound's 1982 ratio may have been more favorable had it sought additional rate relief. The North Dakota Commission can not be "blamed" for Greyhound's 1982 intrastate operating ratio.

In March of 1983 the North Dakota Commission granted Greyhound a 25 percent rate increase. Assuming an inflation rate of six percent, no diminution of traffic, and stable express rates, this increase was meant to provide Greyhound with a pretax intrastate operating ratio of 90.0.

With this rate increase, the fare for travel between Pembina and Beach, ND, a distance of 507 miles, went from $46.10 to $57.65. Greyhound concurrently had a national sales promotion providing for a maximum one way fare anywhere on its system of $99. New York to California for $99; North Dakota intrastate $57.65—reasonable?

On June 28 Greyhound filed for yet another North Dakota intrastate passenger fare increase, this time for 20 percent.

In light of the ICC's rate review actions under the Bus Regulatory Reform Act, the North Dakota Commission attempted to negotiate with Greyhound rather than suspend, investigate, and deny the increase and then have the denial overturned by the ICC. A 13 percent increase was granted despite the Commission's feelings that no increase was in order.

Using methodology agreed upon by both the North Dakota Commission and Greyhound's Traffic Division, the latest increase will take Greyhound's 1983 intrastate pre-tax operating ratio down to 87.5. Its 1984 ratio, assuming inflation at six percent, will be 84.1. In the meantime it now costs $65.10 to go from Pembina to Beach and under Section 17 of the Bus Act. Greyhound is able to increase their North Dakota intrastate rates even more.

North Dakotans are highly dependent upon transportation. The North Dakota Public Service Commission has always recognized this need as well as the carriers' need for adequate revenues and reasonable profits. North Dakotans have and continue to be willing to pay for services rendered. They resent, however, having to subsidize services provided to others who are equally able to pay.

Monopoly pricing under the "watchful" eyes of Congress and the ICC is precisely what North Dakota Greyhound passengers are being subjected to as a result of Section 17 of the Bus Regulatory Reform Act of 1982 and the ICC's administration thereof. Legislative action should be taken to rectify this situation.

I regret that I was not able to present this statement in person. I do, however, wish to thank the Surface Transportation Subcommittee for accepting my remarks into its record and for considering North Dakota's position in this very important matter.

[From the Bismarck Tribune, Aug. 4, 1983]

HIGHER BUS FARE DOESN'T ADD UP

Although planes are sometimes an alternative, many parts of North Dakota depend primarily on buses for mass public transportation.

Therefore, we are concerned about the request by Greyhound Lines Inc. for authorization to charge more for traveling within the state.

The company boosted tariffs by 25 percent in March. That was a hefty increase.

Now Greyhound wants to raise fares by another 20 percent. Pardon us if we are unable to understand how expenses could have risen that much in just four months.

According to the Public Service Commission, Greyhound is basing its request largely on a comparison of its rates in North Dakota with its interstate tariffs.

The company, we are advised, offers some special promotions, like a discount program that limits to $99 the bus fare between any two points nationwide. We suspect that cross-country bargain drives up prices over the shorter haul.

Maybe in-state fares should be compared directly with that $99 special. Then, it would seem the cost of traveling within the state should come down.

But let's not talk apples and oranges. Greyhound deserves a fair profit and its customers deserve fair fares.

If prices for bus tickets aren't reasonable, it might become cheaper and more convenient for the traveler to rent a car or use the services of Northwest, Republic, Frontier, Big Sky and the other air carriers that serve North Dakota.

And we hear some parts of our state even have passenger trains.

Certainly those special interstate fares must be intended to attract riders, keep the buses full and generate income. Therefore, it would follow that the company would lose money if high in-state fares result in empty seats.

Come on, Greyhound, be reasonable.

STATEMENT OF SAMUEL B. JAMIESON, JR., VICE PRESIDENT, SHORT LINE (HUDSON TRANSIT LINES, INC.), NEW JERSEY MOTOR BUS ASSOCIATION, INC.

My name is Samuel B. Jamieson, Jr. and I am Vice President of Hudson Transit Lines, Inc., commonly known as Short Line of Mahwah, N.J.

I am authorized to submit this statement on behalf of the New Jersey Motor Bus Association, Inc.

The New Jersey Motor Bus Association is comprised of most of the major privately owned bus companies in the State of New Jersey providing regular route interstate and intrastate passenger service.

Both commuter and non-commuter services are provided throughout the State with over 100,000 passengers transported daily in interstate commerce most of which are commuters.

Early in the administration of the Motor Carrier Act, the Interstate Commerce Commission (Commission) recognized the uniqueness of interstate transportation in the New Jersey Mass Transportation area by requiring that grants of regular route authority have street-by-street descriptions of the routes awarded by the Commission. The Commission in adopting regulations permitting regular route motor carriers of passengers to serve points off their regular routes, exempted the NY-NJ Mass Transportation area from such authorization. The Commission recognized that the highly competitive situation involved in the NY-NJ Mass Transportation area required that carriers be limited in the territory they were authorized to serve.

Nowhere else in the United States is there commuter bus service comparable to that provided in the NY-NJ Mass Transportation area. There was, at one time, such an area involving Washington, D.C. and parts of Viriginia and Maryland, but their area, which had a similar uniqueness, was removed from the jurisdiction of the Commission. Services in that area are now strictly regulated by local public authority.

The commuter bus industry in the NY-NJ Mass Transportation area is in dire financial condition as evidenced by the fact that many bus companies have gone bankrupt or out of business and public authorities had to take over the discontinued services. Authorizing additional commuter bus competition in the highly competitive commuter business in the NY-NJ Mass Transportation area will not generate additional passenger traffic, but will merely divide existing traffic among more carriers thereby making it unprofitable for any carrier to exist. Providing commuter bus service is a very high cost operation which requires high load factors in order to exist. The diversion of only a small number of passengers per bus could render a commuter bus service unprofitable thereby leading to deterioration, reduction or destruction of the service. This unique situation in the NY-NJ Mass Transportation area requires special consideration and special handling by the Commission.

In November of 1982 the Bus Regulatory Reform Act of 1982 became law. Said Act called for ease of entry for motor carriers of passengers, while at the same time the Act contained provisions to "provide and maintain service to small communities and intrastate bus service", and "provide and maintain commuter bus operations". These provisions were included in the Act only after lengthy and numerous public hearings held by both the House and the Senate.

After the adoption of the Bus Regulatory Reform Act of 1982, (Bus Act) a decision of the Commission, in the case of Caravan Coach Lines, Inc., Docket No. MC-138730 Sub. No. 14, decided March 10, 1983, contained a concurring opinion by Review Board member Chandler which stated as follows:

"The unique character of interstate motor bus service in the New Jersey portions of the New York suburban area is amply demonstrated by the lengthy discussion in this decision of the operations performed by the four carriers which are parties to this proceeding. In this territory, many different bus companies operate over fixed routes which overlap, criss-cross, and generally lie close to those of their competitors. Competition is vigorous and often involves bitter disputes. Many bus operations are publicly subsidized, and it is unlikely that any can be conducted today at more than a marginal level of profitability.

"The problems presented to a regulator are—entirely local, and it has long been absurd that they should be regulated by the Federal government as part of a statutory scheme necessarily directed primarily at long-haul intercity and charter bus operations conducted on a national scale. Unfortunately, however, the local jurisdictions have not been able to cooperate to the extent of agreeing on a plan for a multi-State regulatory compact, such as the one that governs bus service in the Washington, DC, metropolitan area, under which essentially local services could be regulated in a manner designed to meet local needs. Thus, reluctantly, the Federal regulatory presence must be interposed in parochial disputes such as the one before us here.

"If we must regulate this kind of transportation, we must do so, as far as possible, with an understanding of and sympathy for the local situation. The issues raised by the New Jersey bus cases are different from those presented in the great majority of other applications coming before us. At times, therefore, different standards must be applied. For this reason I am prepared to agree that an exception to the Commission's usual policy of not restricting regular-route carriers against service at intermediate points is justified."

Despite the Commission's long-standing recognition of the uniqueness of motor carrier transportation of passengers in the NY-NJ Mass Transportation area and that such uniqueness required special principles and rules in the administration of the Interstate Commerce Act, the Commission, since the adoption of the Bus Act, has failed to treat the NY-NJ Mass Transportation area as being unqiue, but has routinely granted, to this witnesses knowledge, every regular route application on the NY-NJ Mass Transportation area, despite objection of other carriers, that such grant of authority was not consistent with the public interest. The opinion of board member Chandler, in the Caravan Sub No. 14 case stated above, has not been followed by the Commission in other cases. The Senate did not intend the administration of the Bus Act to be administered by the Commission as a regulatory charade. To my knowledge, the Commission has not denied a single regular route application anywhere in the United States where the public interest test has been raised by protestants. The failure of the Commission to deny any case on the public interest test in almost a year since the enactment of the Bus Act certainly leads to the strong inference that a regulatory charade is being conducted in the handling of applications under the Bus Act. This inference is reinforced by the recent testimony of Chairman Taylor with respect to the Commission's handling of property carrier cases under the 1980 act, which eased the entry for property carriers. In recent testimony, Commissioner Taylor described the Commission's regulation of property carriers as "a shuffling of papers", or words to that effect. Since the adoption of the Bus Act it appears that the "shuffling of papers" mentality applied to the property carriers is being similarly applied to passenger carrier applications, despite the fact that the Bus Act contains protective provisions relating to commuter bus operations, intrastate bus service and service to small communities.

It is true that the Bus Act envisioned greater competition among carriers, but the Senate did not intend that competitive authority be granted by the Commission in any and all circumstances regardless of the impact on commuter service, intrastate bus service and service to small communities. The Commission in its decisions since the enactment of the Bus Act is elevating the concept of benefits of competition to such a high level as to completely overwhelm the other factors which the Senate intended the Commission to consider in determining whether or not a grant of authority is consistent with the public interest. Even though the Commission in its decisions give lip service to those other factors, i.e. commuter bus operations, intrastate bus service and service to small communities, in practical application, the Commission has given little, if any weight to those factors in deciding cases.

The following are examples where the intent of the Senate has not been upheld. If service to the small communities and the commuter services presently being provided are to be maintained, it is necessary that the Senate take whatever action is necessary to see that the intent of the Senate is upheld.

In application to the Commission for operating authority by Adirondack Transit Lines, Inc. Docket No. MC-2835 Sub 47, and by Pine Hill-Kingston Docket No. MC 2060 Sub 18, the Commission granted both applications without properly protecting the existing carrier's commuter bus operations and its service to small communities. In both of these cases, the applicant, both prior to making the application and after the application was protested, offered restrictions and amendments that would have attempted to provide protection to the existing commuter bus operations. The Commission apparently adopted an unwritten policy contrary to the intent of the Bus Act and refused to accept or impose restrictions on any application. It is interesting to note that nowhere in the Bus Act does it indicate that such restrictions are not to be accepted by the Commission.

In Eagle Bus Lines Docket No. MC-163163 Sub 3, the applicant, Eagle Bus Lines, restricted one of its proposed routes, which restrictions was eliminated by the Commission. The proposed restriction as offered by Eagle Bus Lines would have protected the existing operators providing commuter bus service over the same highways, serving the same communities.

In Caravan Coach Lines Docket No. MC-138730 Sub 15, the Commission granted the application in its entirely without proper evaluation of its effect on existing commuter bus operations and service to small communities.

In the Caravan Coach Lines MC-138730 Sub 16, the Commission similarly granted the application in its entirely without giving proper consideration to existing commuter bus service.

The cases cited above are examples where the Commission has failed to uphold the provisions contained in the National Transportation Policy Section of the Bus Act as shown in Section 5(a)(2) (E) and (F). They further are contrary to 49 U.S.C. 10922(c)(3)(C) adopted by the Bus Act.

A further concern is the Commissions failure to uphold 49 U.S.C. 10922(c)(2)(H) adopted by the Bus Act. This section provides that the jurisdiction of the Commission to grant intrastate regular route transportation shall not apply to any regular route transportation of passengers provided entirely in one state, which is "in the nature of a special operation". The intent of such provision is described in report No. 97-334 of the House Committee on Public Works and Transportation accompanying the Regulatory bus Reform Act of 1981, wherein it is stated on page 35, that said report is as follows:

"In addition, the Commission should understand that any regular route transportation authorized, under the provisions of paragraph (2) does not include authority to transport passengers in sightseeing or pleasure tours, in any tour service which the passengers have a strong community of interest other than transportation, or in any other type of service normally characterized by the Commission as 'special operations'. For example: *a carrier certificated under the provision of paragraph (2) would not be authorized to transport passengers from a point in New Jersey to Atlantic City if such transportation included any element of the tour service typically offered to the patrons of gambling casinos."* (Emphasis added.)

The following cases are examples of the Commission's failure to uphold 49 U.S.C. 10922(c)(2)(H) adopted in Section 6(b) of the Bus Act pertaining to regular route operations in one state which are in the nature of special operations.

In C.L.D. Transportation Docket No. MC-146473 Sub 8, the applicant filed for a route between New York, New York and Atlantic City, New Jersey, seeking intrastate authority over the proposed routes, as well as interstate authority. The Commission ignored the protective provision of the Regulatory Reform Act and granted both the inter and intrastate authority. The service intended to be provided by the applicant was clearly of the nature of special operations as indicated by the verified statement of the applicant's president, wherein he stated: "In Atlantic city, patrons will be discharged and picked-up the casino of their choice, of which there are not nine. Many casinos offer special bonus incentives, and applicant will cooperate with the casinos in these promotional efforts to the extent necessary and proper". The application was supported by Atlantic City casinos indicating that the nature of the service was that of special operations. Upon review, the Commission granted the intrastate authority and incorrectly stated in its decision as follows: "The proposed operations are not in the nature of special operations, since they do not include the usual features, such as meals or sightseeing, which characterize such service. Applicant will provide a scheduled regular route service and, although it proposes to co-operate with the casinos' bonus incentive programs to passengers, we fail to see how this is sufficient to transform applicant's proposed service in to special operations. this particular practice is a matter primarily between the casinos and their potential patrons, and does not affect the nature of applicant's service. It is common for the casinos to offer such bonuses to potential patrons upon their arrival. The fact that those bonuses are offered when the passengers exit the bus, rather than at some subsequent point in time, a matter of convenience and does not serve to change the character or the proposed operations". There have been other cases similar to that of C.L.D., wherein the Commission's action is ignoring the intent of the Senate. It is interesting to note that the Commission apparently creates new policies to fit the needs to fit the cases before them.

Said policies are not consistent with each other nor consistent with the intent of the Senate. In the above noted C.L.D. decision, the Commission stated that the proposed service was not that of special operations. Yet, in Capitol Bus Company v. Catawese Coach Lines, Inc. No. MC-C-10824, where the type of service operated by Catawese was the same as that proposed by C.L.D., the Commission took the position that it was, indeed, special operations. Which are we to believe?

We are also concerned that a number of applications have been filed seeking both interstate and intrastate regular route authority where it appears that the route is not a bona-fide interstate route, but was a subterfuge in order to obtain intrastate authority for purely local service. We believe that the Senate intended that intrastate authority only be granted where it was incidental to a bona-fide interstate route. We do not believe that route designed in a circuitus and time consuming manner in order to convenience interstate passengers and which bypasses a faster and more direct route which would convenience interstate passengers should be granted by the Commission. Using an interstate route as a subterfuge for obtaining intrastate authority usurps the proper jurisdiction of the States to control local transportation.

Further, we do not believe that a route which serves a very small mileage in one state but very large mileage in a second state should be granted intrastate authority in the second state since the route is essentially intrastate in character.

To compound the problems noted above, we have yet to find where the Commission has accepted a protestant's statement of facts concerning their loss of revenue and irreparable harm as the result of a grant of authority to a new entrant.

The Commission, it appears, continually rejects and ignores the protestant's pleading by characterizing such pleadings as merely being speculative or mere assertions and are therefore rejected.

It is obvious by the foregoing, that the Commission is merely on a course of action based on their own desires and policies rather than that of the intent of the Senate, and we believe that action must be forthcoming from the Senate at once, before the entire essential services of this nation are destroyed.

STATEMENT OF ROBERT W. LOVITO, PRESIDENT, CARAVAN COACH LINES INC.

My name is Robert W. Lovito, I reside at Route 15, South Jefferson Twp., RD 3, Box 451 Wharton, New Jersey.

I am the President of Caravan Coach Lines Inc., a small family owned bus company. I organized this bus company in 1972 from its start of operations until today. We are not subsidized nor do we have any state allocated buses.

With the Motor Carrier Act of 1935, the burden of proof was on the applicant to prove public convenience and necessity, resulting in lengthy hearings, tremendous cost of litagating applications and having all of the large monoplistic transportation companies protesting those applications. Small family owned bus companies could not enlarge their scope of operations for these reasons.

The dominant motor bus carriers had clearly established a monopoly, not only in New Jersey, New York area, but throughout the U.S.A. since 1935.

They had protected areas of operation (without the threat of invading each others territory, I might add). A fare structure that was free of competition and scheduling that was more convenient for their operations than the passengers they were transporting.

Since the Bus Act of 1982, hundreds of small bus companies, such as mine, have filed applications before the ICC Commission to expand their Charter, Special and more importantly Regular Route Operations.

Mr Crawford, Acting Assistant Commissioner of the New Jersey Department of Transportation, in his statement before the Surface Transportation Subcommittee on October 26, 1983 indicated some 300 carriers hold ICC Certificates with most providing daily commuter service to New York City. Mr. Crawford would lead you to believe the Commuter Market in the New Jersey area is saturated with commuter operations, but in reality only 45 bus companies hold contracts with the Port Authority Bus Terminal in New York City and a large portion of the 45 companies who use the Port Authority Terminal are long haul carriers who neither pick up or discharge passengers in New Jersey. Essentially, the commuter market in the New Jersey, New York area is dominated by New Jersey Transit, a state owned carrier and the other long established dominant carriers; such as, Lakeland Bus Lines and Community Bus Lines, in addition, the New Jersey Department of Transportation is concerned that Caravan Coach Lines will adversely affect commuter operations in New Jersey if their pending Sub-15 Application before the ICC is granted.

In February 1982 when the Manahattan Transit Company ceased commuter operations in New Jersey, Caravan Coach Lines took over a portion of the Manhattan Commuter Routes, and today we are operating those routes in direct competition with New Jersey Transit, the state owned bus company, and apparently we have not caused any adverse effect upon the New Jersey Department of Transportation or New Jersey Transit, except to clearly create a competitive regular route commuter bus service in order that the traveling public may be accorded the privilege of a choice between bus carriers to use and enjoy the convenience and benefits of a new improved schedules of service, at lower or more reasonable fares.

Incidentally, Caravan's Sub 15 application is one of the first applications pending before the Commission under the provisions of the new Bus Regulatory Reform Act of 1982.

Prior to the Bus Act of 1982 my company could never hope to break the virtual monopoly or dominant position that New Jersey Transit, Lakeland Bus Lines and Community Transit hold throughout the New Jersey commuter service areas.

Unquestionably, the New Jersey Department of Transportation Lakeland Bus Lines, and the New Jersey Motor Bus Association whose President is also the owner of Community Bus Lines, a protestant in our Sub 15 application and who appeared before the subcommittee last week, have "ganged up" upon Caravan Coach Lines, a relatively small family owned and operated motor bus carrier; in the typical, old fashioned New Jersey Bus Operators manner, in an effort to protect and perpetuate the virtual monopoly which each enjoys in New Jersey.

Hopefully from this proceeding as well as the public interest standpoint, the processing of applications before the ICC under the Bus Regulatory Reform Act of 1982 will prevent dominant bus carriers from achieving their desired results and create competitive regular route motor bus service where relatively little if any such service now exists in the principal New Jersey areas. Moreover, the entire history of the new act makes it clear that its purpose is not to protect existing carriers such as, Lakeland, Community and New Jersey Transit, instead its announced position is to promote and create competition throughout the entire motor bus industry and to simplify the entry requirements and lessen the financial and procedural burdens previously placed upon carriers seeking new or expanded authority such as my company.

I am available to answer any questions that may be asked.

INTERSTATE COMMERCE COMMISSION DECISION No. MC-138730 (SUB-No. 15)

CARAVAN COACH LINES, INC., EXTENSION—NEW JERSEY (WHARTON, N.J.)

(Decided: August 1, 1983)

We have considered the application and the record in this proceedings, including the decision of Review Board Number 2, served May 18, 1983, the joint appeal by protestants Lakeland Bus Division (Lakeland Local 33) and Community Transit Bus Division (Community Transit Local 33) of Local 33 of the United Transportation Union, the separate appeals by protestants Community Transit Lines, Inc., Lakeland Bus Lines, Inc., NJ Transit Bus Operations, Inc., and the New Jersey Department of Transportation, and the reply by applicant.

Applicant seeks a certificate to transport passengers, in interstate or foreign commerce, over seven regular routes extending generally between New York City via the Lincoln Tunnel and points throughout northern New Jersey. The review board granted the application in its entirety, except that it eliminated, as inconsistent with the Bus Regulatory Reform Act of 1982 and Commission policy, language referring to alternate routes in parts (6) and (7) of the proposal.

On appeal, protestants contend generally that the review board erred in granting the application and in several other respects. Moreover, Lakeland Local 33 and Community Transit Local 33 claim that the review board improperly failed to consider and discuss the former's protest. Accordingly, protestants request that we vacate and set aside the initial decision and reopen the proceeding for hearing before an appropriate joint board or, in the alternative, deny the application in its entirety.

Our evaluation of the record leads us to conclude that the initial decision should be affirmed, except as discussed here. Protestants' arguments on appeal regarding the need for oral hearing, their motion to strike, proper contents and requirements of an applicant's initial statement and reply, and consistency with the public interest were thoroughly considered and discussed, and properly disposed of, by the review board. Therefore, we will not address those arguments and related issues here.

We do note, however, as contended by protestants, that the review board improperly failed to consider and discuss the protest of Lakeland Local 33—the collective bargaining unit of all bus drivers employed by Lakeland Bus Lines. As such, we will do so here.

In its statement, Lakeland Local 33 claims that applicant seeks to duplicate, in substantial part, the regular routes served by Lakeland Bus Lines, and voices concern that there is not enough territory and ridership to support another bus system over those routes. Protestant also fears that the addition of Caravan's "cut rate" service, involving substandard wages, hours, and conditions of employment, will jeopardize the excellent labor relations record at Lakeland Bus Lines, threaten job security, wages, and fringe benefits, and lead to a deterioration in morale and quality and safety of service. Protestant also believes that approval of this application would be inconsistent with important goals of the national transportation policy providing for the maintenance of commuter bus operations and encouraging fair wages and working conditions in the transportation industry. For all of these reasons, Lakeland Local 33 argues that the application must be denied.

In considering this statement, we note that the evidence and arguments contained therein are essentially the same as those presented by Community Transit Local 33 which were considered and discussed by the board in the initial decision. Moreover, we note that any new evidence contained in the Lakeland Local 33 statement relates to the same general arguments made in the former statement. In any event, we find nothing in the Lakeland Local 33 statement which would warrant a result different from that reached by the review board in its initial decision.

It is ordered:

The appeals are denied because the findings of Review Board Number 2, except as here discussed and modified, are in accordance with the evidence and the applicable law.

Operations may begin only following the service of a certificate and upon compliance with the following requirements set forth in the Code of Federal Regulations: insurance (49 CFR 1043), designation of process agent (49 CFR 1044), and tariffs (49 CFR 1306).

This decision will be effective 25 days from its date of service.

By the Commission, Division 1, Acting as an Appellate Division, Commissioners Andre, Taylor and Sterrett. Commissioner Taylor is assigned to this Division for the purpose of resolving tie votes. Since there was no tie in this matter, Commissioner Taylor did not participate.

AGATHA L. MERGENOVICH,
Secretary.

JOINT STATEMENT OF JEROME C. PREMO, EXECUTIVE DIRECTOR, NEW JERSEY TRANSIT AND WAYNE J. SMITH, EXECUTIVE DIRECTOR, UNITED BUS OWNERS OF AMERICA

Due to the substantial controversy and acrimony surrounding the nationwide special and charter application filed by New Jersey Transit Bus Operations, Inc., the executive director of New Jersey Transit, who also serves as president of New Jersey Bus Operations, Inc., and the executive director of United Bus Owners of America (UBOA) have held discussions regarding the issues of the application.

As a result, much better understanding of the feelings of the various parties has been reached. UBOA has secured a better understanding of the basis upon which New Jersey Transit Bus Operations, Inc., filed its special and charter application. In turn, the company now more fully appreciates the substantial pressures on the independent passenger carriers as a result of the changes in the industry and state of the national economy, compounded by the new and more vigorous competition from airlines.

Based on these discussions, New Jersey Transit Bus Operations, Inc. has determined to withdraw its Sub. 470 application. By this action, it hopes to achieve more harmonious relationships with its fellow transit operators and to concentrate its efforts more fully on meeting its prime mission, which is to provide commuter and regular route service to the citizens of the State of New Jersey. It already possesses sufficient authority to conduct special and charter operations, which allow it to make efficient use of all its facilities, consistent with all applicable federal regulations governing such operations.

UNITED BUS OWNERS OF AMERICA,
Washington, D.C., November 4, 1983.

Hon. JOHN C. DANFORTH,
Chairman, Subcommittee on Surface Transportation, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: During the course of testimony on November 1, on Legislative Oversight of the Bus Regulatory Reform Act, you questioned Mr. Nagle, my assistant, on the extent to which publicly funded carriers constitute a danger to the solvency of privately funded bus companies.

Attached to this letter is a communication addressed to the Chicago Regional Office of the Urban Mass Transportation Administration. You will notice that the transportation funding recipient proposes to operate taxpayer-purchased buses without taking their capital value into consideration. You will notice, also, that the proposed fee schedule is just about one-third of the costs which must be borne by privately funded carriers.

To the extent that any publicly funded carrier, when entering the field of formal charter transportation, enters also into the purview of the Bus Regulatory Reform Act, we suggest that the instant matter is relevant to your Oversight function.

We offer our earnest compliments both for the manner in which you conducted the Oversight hearings, and for your persistent support of S. 1108.

Sincerely,

WAYNE J. SMITH.

Enclosure.

UNITED BUS OWNERS OF AMERICA,
Washington, D.C., November 4, 1983.

Hon. ROBERT W. KASTEN, Jr.,
U.S. Senate,
Washington, D.C.

DEAR SENATOR KASTEN: This letter comes to you, in your capacity as a member of the Senate Committee on Commerce, Science and Transportation. More particularly, it comes to you because the material included in the transmittal bears upon the well-being of the community of privately owned bus companies, one of the finest residual examples of America's free enterprise system, a system which, is endangered by the use of bus owner tax dollars to finance public transit authorities which, in turn, drive the private entrepreneur off the highway.

Racine's Royal Coach Lines has made a superb presentation, one upon which we would like to share the narrative of our attempts to be of service. By no means, do we imply that the subject proposal will damage only Royal Coach Lines. There are, in the State of Wisconsin, significant additional numbers of bus owners, each of whom is endangered by the undertakings contemplated by the City of Racine.

Sincerely,

WAYNE J. SMITH.

Enclosure.

UNITED BUS OWNERS OF AMERICA,
Washington, D.C., November 4, 1983.

Mr. RICHARD BACIGALUPO,
Regional Counsel, Urban Mass Transportation Administration,
Chicago, Ill.

DEAR MR. BACIGALUPO: In a telephone conversation on November 2, Mr. Nagle discussed with you the announcement by the City of Racine, Wisconsin, of its intention to expand its Belle Urban System to provide charter service in the totalities of Racine, Milwaukee and Kenosha Counties.

You noted that the comment period ended on November 1, 1983, and that, routinely, at this point no presentation would have reached your desk. I am transmitting a series of papers furnished to UBOA by Royal Coach Lines, a privately funded provider of special and charter operations, an entity that will be injured, grievously, if the referenced recipient of UMTA funding is authorized to implement its operational intentions.

The documents, as transmitted here, despite the classic fallacy in the practices of publicly funded carriers in determining costs of operation. The documents show a depreciation factor while not indicating the capital investment which is being depreciated. Understandably, taxpayers such as Royal Coach Lines, are offended by the phenomenon of having the funded recipient proceed as though there has been an up-front write-off of those tax dollars.

Every day I find charter coach cost items coming up for routine discussion with bus owners. I know of no private carrier who claims an ability to operate a highway coach at a level lower than $1.50 per mile or $35.00 per hour.

The tabulation published by the City of Racine, and included in our transmittal, is statistically nonsensical and substantively inaccurate.

Airport service is not, ordinarily, the type of passenger carriage which is entitled to public assistance. Yet, Racine claims to be able to operate airport service at $60 while the minimum estimated by Royal Coach Lines, a superbly managed carrier, is slotted at $160, almost three times Racine's allocated costs.

Admittedly, what has been presented here, leaps to conclusions that the Belle Urban System proposals as published in the transit district, will indeed be submitted to your office as the basis for an operating agreement. My purpose, here, is simply to assert that private carriers, resident in the Tri-County area are far, far from a willingness to accept the computations put forward by the City of Racine.

Thank you for your demonstrations of concern.

Sincerely,

WAYNE J. SMITH.

Enclosure.

ROYAL COACH LINES, INC.,
Racine, Wis., October 17, 1983.

Re BUS–Racine charter proposal.

Mr. WAYNE SMITH,
UBOA,
Washington, D.C.

DEAR WAYNE: Sorry for the delay, but I could not reach Mr. Mike Glasheen to verify this charter proposal was the most complete information he was furnishing UMTA. He stated it was the only info available for the preliminary application.

I do not believe they furnished the same info to UMTA when they needed funding for the transit system as they really show no peak period for the 3-month period from Memorial Day to Labor Day.

I also took their cost figures, which are questionable, and costed out a Milwaukee Airport drop which he admitted on the phone is doing now. They show an out of pocket cost $67.34 and only charge $60.00. I really believe their cost would be close to $80.00 based on the time element only for the Milwaukee charters we operate, without the subsidized operation.

It certainly appears they should sell some equipment and save the taxpayers a great deal of money. I will wait to contact the local newspaper as they are always interested in this type of news that is costing the taxpayer.

Enclosed is a copy of letter sent from Larry Temple at North American. Mike Glasheen said he was perturbed that a new private operation would protest his application when he had an established charter operation in Racine.

Sincerely,

DICK HAMMANN.

Enclosure.

NORTH AMERICAN,
Northbrook, Ill., October 17, 1983.

CITY OF RACINE, DEPARTMENT OF TRANSPORTATION,
Racine, Wis.

GENTLEMEN: I strongly object to the expansion of the Belle Urban Systems into the area of charter service. The reasons are as follows:

1. Deregulation has already caused a severe depression in rates and additional competition for the limited market.

2. The rates proposed are substantially below those rates published by competing carriers.

3. There is already ample equipment available to provide required services.

Our company has just recently started operations in the Racine area and would consider this proposal to be destructive competition.

Further pursuit of this application will be vigorously opposed.

Yours truly,

LAWRENCE R. TEMPLE,
President.

SEPTEMBER 29, 1983.

The City of Racine hereby provides notice that it intends to apply to the Urban Mass Transportation Administration for permission to expand its Belle Urban System charter operation into Western Racine, Milwaukee and Kenosha Counties. This letter and its attachments are to satify the requirements set forth by the Urban Mass Transportation Administration. UMTA guidelines require that a written notice be sent to all charter bus firms operating in the City of Racine's proposed charter service area informing them of its intentions and describing its proposed charter bus operations. This written notice is comprised of the following three attachments:

1. Description of Proposed Charter Bus Operations.
2. Certification of Costs for Charter Service.
3. Cost Allocation Plan for Charter Service.

The City of Racine asserts that the proposed use of charter buses will be incidental to and will not interfere with regularly scheduled mass transportation services. The charter rates are set so that the operation of the charter services will not be a financial loss to the transit system whereby public financial assistance would be required, nor has the transit system established any charter rate which is designed to foreclose competition by charter bus operators.

Written comments may be submitted to the City of Racine, Department of Transportation, 730 Washington Avenue, Room 103, Racine, Wi. 53403. All comments will be forwarded to UMTA as part of our application. Comments should be received by November 1, 1983.

Very truly yours,

MICHAEL J. GLASHEEN, P.E.,
Transit Planner.

I. CHARTER SERVICE AREA

Buses will be chartered within Racine County and within the contiguous counties of Kenosha County and Milwaukee County.

Exception: No charters will be accepted wholly within the service areas of the Transit Systems owned by the City of Kenosha or Milwaukee County when those Transit Systems are capable of operating the charter.

No buses will be chartered to or from points outside of the above described three county area.

II. RATES

A. Type of bus: 39-41 Pass. A/C.

1. Minimum Charge, 2 hours of less, $60.00.

2. Each additional one-quarter (¼) hour, $7.50.

Air conditioned, no extra charge.

Public address systems, no extra charge.

III. REGULATIONS

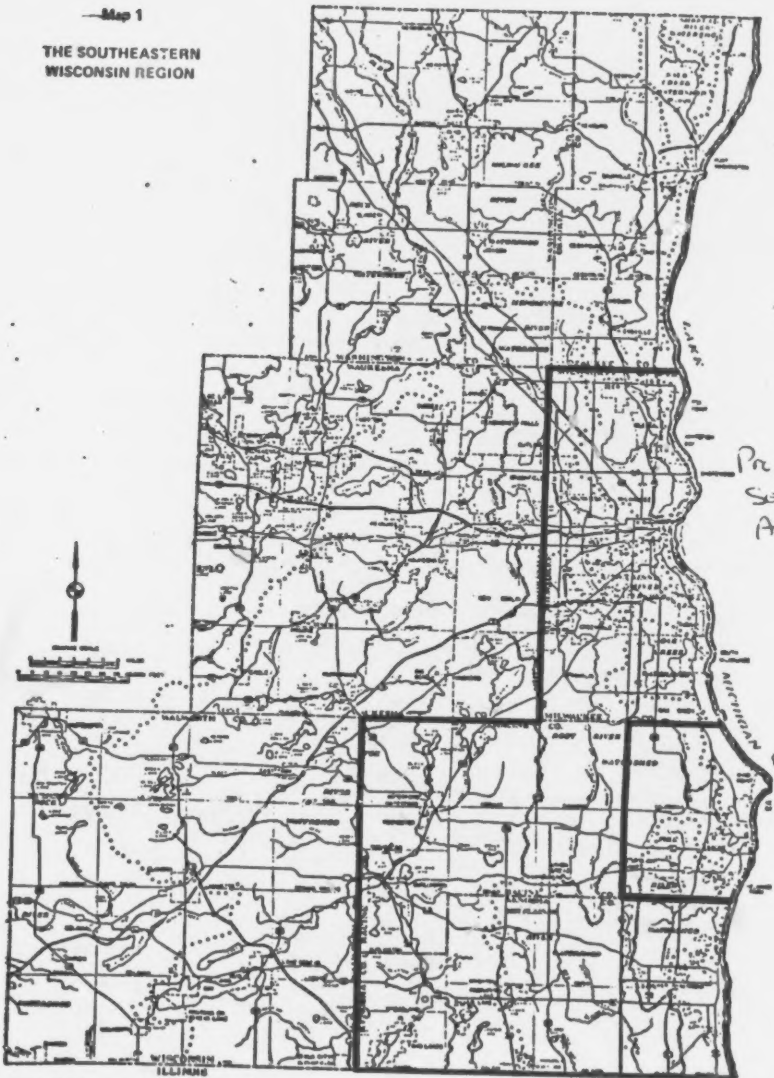
A. Cancellation charge—A two-hour cancellation charge of Sixty-Dollars ($60.00) will be made if vehicle has left station.

B. Airpot transfers—Will be Sixty-Dollars ($60.00) providing the bus is used for two hours or less.

C. Elapsed time—To be the entire period for time bus has left garage.

Map 1

THE SOUTHEASTERN WISCONSIN REGION


LAKE
MICHIGAN
MILWAUKEE CO.
WAUKESHA
WALWORTH
WISCONSIN
ILLINOIS

Proposed Service Area

Existing Service Area

The seven-county Southeastern Wisconsin Planning Region comprises a total area of about 2,689 square miles, or about 5 percent of the tota land and inland water area of Wisconsin.

Source: SEWRPC.

BEST COPY AVAILABLE

BUS REQUIREMENTS: REGULAR SERVICE

Maximum number of buses used in regular service.

	Peak	Offpeak
Labor Day through Memorial Day:		
Weekday	32	25
Saturday		24
Sunday/Holiday		0
Memorial Day through Labor Day:		
Weekday	0	25
Saturday		24
Sunday/Holiday		0
Buses available	39	39

BUS REQUIREMENTS: CHARTER SERVICE

Estimated number and type of buses to be used in proposed incidental charter operations.

Monday through Friday: 1 to 2 buses per day average; 3 buses per day maximum.

Saturday: 1 to 2 buses per day average; 4 buses per day maximum.

Sunday/Holiday: 1 to 2 buses per day average; 5 buses per day maximum.

CITY OF RACINE—COST OF OPERATING CHARTER SERVICE, COST ALLOCATION PLAN

It was assumed that all operating expenses appearing in the applicant's accounts and budget apply to charter operations.

All applicable operating expenses were assigned to charter costs on a mileage basis with the exception of wages, fringes, leases and rentals, and subsidy payments which were assigned on an hourly basis. The hourly basis for cost allocation of these items more fully reflects that element of cost.

In addition to an allocation of recorded incurred expenses, the charter costs here certified include estimated amounts for depreciation and for taxes from which applicant's mass transit operation is exempt.

CITY OF RACINE—1983 ESTIMATED COST OF CHARTER SERVICE

	Per bus mile or hour	Hourly rate charters
Operator wages (per hour)	$7.845	$7.845
Other wages (per hour)	2.245	2.245
Fringe benefits (per hour)	4.387	4.387
Materials & supplies (per mile)	.411	3.586
Services (per mile)	.156	1.361
Insurance (per mile)	.030	.262
Leases and rentals (per hour)	.128	.128
Subsidy payments (per hour)	1.113	1.113
Expenses not recorded in transit system accounts: (per mile):		
Depreciation	.132	1.152
Motor fuel taxes	.065	.567
State registration taxes	.007	.061
Federal excise taxes	.001	.009
Property taxes	.014	.122
Total expenses		22.838

Average bus miles per hour of charter 8.725.
Average bus hours per hour of charter 1.000.

I hereby certify that this statement of Estimated Charter Service Operating Costs is complete and accurate and in accordance with generally accepted accounting principles consistently applied.

CITY OF RACINE TRANSIT SYSTEM—PRO FORMA FINANCIAL SUMMARY, 1983 CHARTER OPERATIONS

	Revenue	Expense	Net revenue
Hourly rate charters—710 hours:			
At $30.00	21,300		
At $22.838		16,215	5,085
Total	21,300	16,215	5,085

I hereby certify that this Pro Forma Financial Summary is complete and accurate and in accordance with generally accepted accounting principles consistently applied.

U.S. SENATE,
COMMITTEE ON APPROPRIATIONS,
Washington, D.C., November 8, 1983.

Hon. JOHN C. DANFORTH,
Subcommittee on Surface Transportation, Committee on Commerce, Science, and Transportation, U.S. Senate, Immigration Building, Washington, D.C.

DEAR JOHN: I am sending you herewith a statement by the Director of the Motor Carrier Division, West Virginia Public Service Commission, on the impact of the Bus Regulatory Reform Act of 1982 on bus passenger service in West Virginia.

This statement confirms my prediction at the time the legislation was before the Senate that its passage would mean a loss of bus service for many communities in West Virginia. As Mr. Franklin Crabtree indicates, in less than one year since passage of the Act, 36 communities in West Virginia have lost bus service, and another 23 are presently threatened with total service abandonment. The adverse impact on small rural communities is even more immediate and severe than I feared when arguing against passage of this legislation to deregulate the bus industry.

Mr. Crabtree states further that the exit decisions rendered to date under the Act evidence a definite leaning on the part of the Interstate Commerce Commission toward automatic exit; that the ICC is not considering public interest equally with economic considerations as prescribed by Congress.

The WVPSC advocates the amendment of Sections 16 and 17 to more closely guide the ICC and states in their roles in exit and rate cases, and to provide more specific statutory safeguards to reduce the risk of ridership manipulation by bus companies. Support is also indicated for an amendment suggested by the Illinois Commerce Commission to require advance notice by bus companies of route abandonments, and to extend the time period for states to act on abandonment petitions. Without these amendments, concern is expressed that a minimum level of service can be preserved for small and rural communities around the country.

I request that this statement, and my covering letter, be included in the record of the oversight hearings held on November 1st by the Senate Subcommittee on Surface Transportation on the Bus Regulatory Reform Act.

With kind regards, I am

Sincerely yours,

ROBERT C. BYRD,
U.S. Senator.

Enclosure.

THE BUS REGULATORY REFORM ACT OF 1982 ONE YEAR LATER, A STATE REGULATORY PERSPECTIVE

I. INTRODUCTION

Good morning. My name is Frank Crabtree. Today I would like to address the impact of the Bus Regulatory Reform Act of 1982 from the perspective of a state regulatory body. I have worked the past five and one-half years as a regulatory attorney, and the last two and one-half years as Director of Motor Carrier Division for the West Virginia Public Service Commission. In this capacity I have had the opportunity to work with various sections of the Act in cases filed with the Commission over the last 12 months.

In West Virginia we were concerned with certain provisions of the Bus Regulatory Reform Act early on, specifically the preemptive aspects of Sections 16 and 17, and our concerns with this legislation were expressed to members of the House and Senate during its consideration of the bill. I must say some of our worst fears have been realized since that time.

Within ten days of the effective date of the BRRA both Greyhound and Virginia Stage Lines, an operating subsidiary of Trailways, Inc., filed petitions for massive route abandonments in West Virginia. With few exceptions, these service abandonments adversely affected people with no other feasible means of intercity transportation. As you have heard, or will hear, citizens of these communities relied heavily on bus transportation to meet an array of needs—personal, economic, educational, medical and political.

As a result of filings made in West Virginia pursuant to this legislation some 36 scheduled communities, as well as points in between, are without bus service—service available less than one year ago—and another 23 communities are presently threatened with total service abandonment. (Attachment 12 [1]). There appears to be no way to undo what has already been done in respect to these communities. But the scope of this legislation, in terms of societal impact, is a continuing story. Unless certain measures are taken by Congress in the near future, the unmet transportation needs of largely rural states such as West Virginia will continue to grow.

In contrast this body will probably hear and have the opportunity to address concerns of more urban states where relaxed entry standards in Section 6 of the Act are responsible for destructive competition and unfair pricing. Although these are valid concerns, West Virginia's problems with the Act go to more basic needs. Most distressing from West Virginia's point of view is the ICC's failure to properly interpret and implement Congressional intent in its review of state decisions denying exit petitions. These problems are compounded by ICC rules and decisions which presume short-sightedness on the part of states and good faith on the part of the bus industry. Neither of these presumptions are necessarily accurate. As I hope to demonstrate today, quite the opposite sometimes may be true.

Before I leave the area of the more liberal entry policy expressed in Section 6 of the Act, I would like to address the impact of this policy in abandonment cases. Generally, Section 6 makes entry quite easy for any carrier demonstrating financial responsibility and equipment safety. This is a step in the right direction. However, Section 6 is used as a scapegoat by major carriers wanting to abandon service under Section 16. The standard argument goes like this: abandonment will clear the way for the smaller entrepreneur who, with the advantage of lower overhead and operating costs can provide a more efficient profitable service over the abandoned route. Examined in the abstract, this appears to be a supportable proposition. But this rational breaks down when superimposed on small communities with two-lane highways and unique transportation needs. If a super-carrier with the vast resources, low cost of capital and economies of scale cannot succeed on certain mostly rural routes, I question the ability of the smaller carrrier. Certainly most small carriers would operate in a manner different from Greyhound and Trailways on some routes examined in West Virginia were people for the most part are uninformed of what service is being offered, when it is being offered or even where to call for this information.

To be fair, however, we must give large carriers their due, because some states have been historically recalcitrant to accept reality on requests to reschedule or abandon service. Regulatory lag has played a part in the carriers' dilemma. Significantly, private carriers rarely receive government subsidies as do transit authorities and nonprofit organizations which provide some limited transportation services. Thus, to some extent regulatory bodies should be held accountable for conditions requiring reform. But the industry also has played a part in creating this unfortunate situation. Historically the regulatory environment has supported empire-building by the super-carriers, approving service monopolies, mergers and consolidations and chasing elusive costs with rates to the extent that efficiency incentives were nonexistent. Now via the Bus Act these carriers propose to capitalize on this old-line regulatory thinking, born of captive markets, to relieve them from the responsibility for prudent management. In large part, recent victims of the abandonment provisions in § 16 are actually victims of this government-condoned "goldplating" whereby costs were allowed to escalate at a rate for superior to revenues. Thus, the empire is collapsing on the very people, routes and communities which made it what it is today.

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[1] The attachments referred to have been retained in the committee files.

II. PUBLIC IMPACT RECONSIDERED—UNCONSIDERED?

Under present law the ICC must approve a carrier's abandonment request unless it finds that objectors have proven that the proposed discontinuance is inconsistent with the public interest or that discontinuance will not constitute an unreasonable burden on interstate commerce.

Of course the ICC is required to accord great weight to the disparity, if any, between variable costs and revenues when applying the financial impact portion of this test.

The Commission must exercise its discretion in according appropriate weight to other considerations including the National Transportation Policy, offers of subsidy and whether the service to be abandoned is the last public transportation between affected areas.

The twenty exit decisions rendered to date suggest a reluctance on the federal level to acknowledge and apply the exit test consistent with legislative intent. (Attachment 9). I'll be the first to admit that these decisions go to great lengths in analyzing the cost/revenue aspect of the test, but it appears the ICC has given little weight to the coequal public impact component—and I use the term "coequal" with some authority since in floor debate on this bill several of you and your colleagues expounded on this point. (See generally, Attachment 2). Chairman Howard himself clearly stated the intent underlying this bill on November 19, 1981:

"This bill, as previous regulatory bills, is regulatory reform and not total deregulation. This result was thought to be the best approach.

* * * * * * *

"Conversely, it permits them to abandon segments of their operations unless such actions are not consistent with the public interest or such abandonment is not an undue burden on interstate commerce. The ICC is to oversee these processes in a manner that requires that agency to examine the effects on service to small communities and commuter services.

"Finally, the bill gives special consideration to small communities' service and commuter services. They are singled out for special consideration in the provisions of the bill dealing with entry, exit, reduction in service, and removal of operating restrictions. The overall intent is to maintain and improve these types of services." (Attachment 2, pp. 3-4).

But since the ICC had testified on this bill in favor of automatic exit, siding with industry, concerns were appropriately raised by Congressman Kazen:

"So, you know, (there are) two strikes against the states when they come up on appeal arguing against exit if the ICC has already made up its mind and has argued and has the position that they favor automatic exit. It creates a doubt in my mind as to whether or not, whether we say it in the law or not, whether the ICC will kind of lean toward their position because they have made their position known." (Attachment 2, pp. 6-7).

Accordingly, some Congressmen asked for assurances that the public interest was adequately protected:

"Mr. RAHALL. Mr. Chairman, I do have one last question. Will the "public interest" criterion contained in the exit provisions of H.R. 3663 carry as much weight with the ICC as economic considerations?

Mr. ANDERSON. Mr. Chairman, the intent of this bill is to insure that the public interest test has an equal emphasis with economic considerations and the ICC interpreting otherwise would be a regulatory charade. The act does not create, and the Public Works and Transportation Committee would not condone, such a charade. (Attachment 2, p. 9; Attachment 3).

It further appears that the industry was very successful in allaying concerns for abandonments in rural areas:

"Mr. RAHALL. I am further assured that service will continue to the small communities of my district through meetings with representatives of Greyhound and Trailways—both of which serve the southern part of West Virginia. According to a letter sent to me by William L. McCracken, Senior Vice President of Greyhound Lines, Inc., and dated November 17, 1981, 'While an absolute guarantee with respect to future service is not possible, we feel very comfortable in assuring you that we have no present plans to change our service nor can we foresee any reason to significantly change that service in the coming years.' " (Attachment 2, pp. 9-10).

One short year down the road from the effective date of this legislation you will find bus service in West Virginia significantly changed.

Furthermore, the exit decisions rendered to date evidence a definite leaning on the part of the ICC toward automatic exit. The ICC is not considering public interest equally with economic considerations as prescribed by Congress. Its exit decisions indicate that a charade is being conducted. (Compare Attachments 4 and 5, generally, to Attachment 10, pp. 13-21, and Attachment 11, pp. 13-22). I urge this body to implement its intent in no uncertain terms to correct this abuse.

III. THE SCHEDULING SHELL GAME

Next, I would like to address scheduling of intercity bus transportation and its effect on ridership. As you know, Section 17 prohibits state intervention where a carrier proposes rescheduling of existing passenger service. Significantly, the bus company can adjust schedules as often as it likes and in any manner it pleases, subject only to 30 days advance notice. It's easy to predict the effect on ridership of multiple adjustments or inconvenient time-of-day scheduling on a certain route. The service loses its value to the community and many needs go unmet. Thus, the company can effect de facto abandonment subject to the review of no one.

Moreover, complete freedom in respect to scheduling service can make low ridership a self-fulfilling policy. A carrier may write its own ticket, so to speak, and mold its ridership statistics for abandonment purposes by manipulating timetables over a relatively short time span, intentionally providing erratic service at extreme off-peak hours between certain points.

Why, you might inquire, would a carrier intentionally reduce ridership by means of schedule manipulation? I suggest the major companies are engaging in this practice to free more of their resources to compete in newer and denser markets spawned by entry deregulation. The smaller, usually rural, more marginal intrastate routes are being sacrificed, with ICC blessing, for more lucrative hauls over the interstate highway system. The Act's lenience and presumption of good faith on the carriers' part prompted one company to proclaim in its pleadings that it would be happy to continue serving the West Virginia routes in question if it were subsidized to the extent of fully allocated costs plus 20% profit. (Attachment 1). I submit that this cavalier attitude presently prevails throughout much of the intercity bus industry.

Ladies and gentleman, the needs of the traveling and shipping public in West Virginia, as well as citizens of other rural states, cannot be met by carriers interested only in operating over paths of least resistance and maximum profit. Nor does Congressional intent as expressed in the Act, condone such an interpretation or attitude. Complete scheduling freedom—unchanged—epitomizes federal naivete at best, insensitivity at worse, when it comes to public transportation needs in rural America. More specific statutory safeguards are warranted—safeguards which permit states to deny rescheduling attempts and to prescribe timetables on routes where service has been reduced to minimum levels.

IV. AN OPERATION MEANT TO FAIL

One of the most frustrating fallacies of the ICC's interpretation of the Act is an implied presumption of good faith or best efforts on behalf of the carrier petitioning for abandonment under Section 16. The cost/revenue analysis does not explicitly require that body to analyze the carrier's own contribution to low ridership which may exist on certain routes. As a result the carrier finds it more expedient to let ridership decline on a marginal route rather than expend the effort necessary to promote services since the cost/revenue analysis does not discriminate between self-inflicted injury and prudent management.

A most striking example of management apathy surfaced in Greyhound's recent route abandonments in West Virginia, but arguments pointing out this abuse fell on deaf ears at the ICC. Specifically, the record developed at the state level contained uncontroverted evidence that Greyhound had made little effort, if any, to mitigate its alleged loss position. The state's hearing examiner in that case found:

"The record is replete with testimony indicating that the Petitioner has failed to sufficiently inform passengers and potential passengers, as well as shippers and potential shippers, of services available to them. Indeed, in the words of one protestant, in some areas it appears that the Petitioner has conducted "an operation meant to fail."" (Attachment 11, page 29).

In fact, Staff's brief to the ICC cited extensive testimony and evidence clearly establishing that scheduling information in some of the affected communities was difficult to obtain, at best; that advertising of services was nonexistent; and suggesting that available cost savings went ignored by the company. (Attachment 11, pages 29-36).

In its decision reversing the West Vierg,inia Commission's Refusal to help those unwilling to help themselves, the ICC summarily discounted and disposed of this overwhelming evidence of public interest abuse:

"Finally, complaints concerning petitioner's service schedules and advertising policies do not support the argument that petitioner has failed actively to promote ridership. As a national carrier, Greyhound advertises in media throughout the country. It cannot, however, be expected to advertise regularly in every local publication. Contentions at the state hearings that individuals had difficulty obtaining scheduling information are to be expected in rural locations where information is not as readily available as in urban centers. For all these reasons, the record will not support allegations that Greyhound has contributed to losses on these routes by failing to take reasonable management initiatives." (Attachment 4, page 12).

Thus, I feel compelled to restate our contention that while Congress appropriately has chosen to assist those carriers whose good faith efforts have produced no appreciable results in stimulating service usage, Section 16 of the Bus Act was never intended to help those unwilling to help themselves; and unless the ICC's interpretation of the cost/revenue test expressed in the Bus Act is to be deemed a regulatory charade, this body should make its intentions crystal clear—that the Bus Act will not be used, or abused, to extricate the bus industry from relatively unproductive routes where it has conducted an operation meant to fail.

V. CONCLUSION

Contrary to what you might surmise from this testimony, West Virginia does not seek repeal of any provision of the Bus Act. We acknowledge that the industry has been thrust into a situation quite different from that of several decades ago when intercity travel by personal auto and other competitive modes was not feasible for most people. We recognize that subsidies from profitable routes should not be squandered on the provision of superfluous service.

On the other hand, we believe that Act requires the continuation of routes where ridership may have declined due to mismanagement but where service is still in the public interest. It is this factor which the ICC has chosen to ignore, and the Oversight Committee should address this ignorance.

We concur with resolutions of the Southern Legislative Conference and the Southern Governor's Association recommending amendment of Sections 16 and 17 to more closely guide the ICC and states in their roles in exit and rate cases. (Attachments 6 and 7). We specifically endorse the amendment by the Illinois Commerce Commission requiring:

(1) Prior notice to the states of route abandonments;

(2) Clarification of congressional intent in respect to ICC consideration of complete service abandonments in rural communities;

(3) Reducing the risk of extreme off-peak scheduling, and thereby ridership manipulation, where service has already been reduced to minimum levels; and

(4) Federal and state cooperation in developing regulatory approaches designed to preserve bus service to otherwise isolated communities. (Attachment 8).

Importantly, the Illinois Prior Notice Amendment (PNA) appropriately addresses state problems with severe time restraints imposed by the Act. The PNA would require a carrier to indicate particular routes if may attempt to abandon in the following year. Thus community and state officials, as well as present and potential customers, would be alerted in advance to the threatened loss of bus service. Within thirty days the carrier could file its "Notice of Intent" to abandon, along with ridership and revenue data on which it intends to rely. The carrier would follow the "Notice of Intent" with its abandonment petition within 60–90 days. States would have 90 days from filing to reach a decision. Significantly, this procedure would give states an additional thirty days to analyze carrier data, make information requests, assess and mobilize public input, hold hearings and reach a decision. The corresponding burden on the carrier would be de minimus.

The PNA would provide an opportunity for the more complete development of the evidentiary record on the state level, giving both the state and the ICC a more informed opportunity to implement provisions of the Act in accordance with the goals expressed therein.

I submit that time is of the essence if these goals are to be achieved. The industry continues to reduce and abandon service across the country at the expense of those least able to pay or to articulate their concerns.

The Act as we view it should be interpreted consistent with the intent of Congress—as regulatory reform and not as deregulation of the intercity bus industry.

It should be implemented to reduce unnecessary regulatory burdens while preserving a minimum level of service.

It should not be abused by carriers who have conducted an operation meant to fail in an attempt to maximize profit at the expense of those in need of basic public transportation.

For all these reasons we urge this Committee to recommend appropriate amendments to the Act.

SOUTHERN GOVERNORS' ASSOCIATION,
Washington, D.C., November 15, 1983.

Hon. JOHN DANFORTH,
Chairman, Senate Subcommittee on Surface Transportation,
Washington, D.C.

DEAR MR. CHAIRMAN: The Southern Governors' Association adopted a resolution on bus deregulation during our 1983 Annual Meeting, held in September of this year. The resolution, which was referred to us by the Southern Legislative Conference calls attention to the fact that the language in the Bus Regulatory Reform Act of 1982, P.L. 97-261, effectively directs the Interstate Commerce Commission to favor a carrier's financial considerations at the expense of public interest criteria when reviewing requests for route abandonments. The resolution calls upon Congress to re-examine the criteria in the Act which currently guide the ICC and to provide that community, economic and human needs of the service area be given consideration.

Enclosed are copies of the resolutions adopted by the Southern Governors' Association and the Southern Legislative Conference. The latter is attached to a letter from state Senator Frank Komenda of Maryland who chairs SLC's Transportation Committee. Senator Komenda's letter also includes an article from the Memphis Commerical Appeal outlining some of the problems associated with deregulation.

Please include these materials in the record of the hearings you are holding on bus deregulation this month and consider them in your deliberations on this issue. Feel free to contact me if you have any further questions regarding SGA policies on this or related matters.

Sincerely,

CHARLES S. ROBB, *Chairman.*

Enclosures.

SOUTHERN LEGISLATIVE CONFERENCE OF
THE COUNCIL OF STATE GOVERNMENTS,
November 1, 1983.

Hon. JOHN DANFORTH,
Chairman, Senate Commerce, Science, and Transportation Subcommittee on Surface Transportation, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: As 1983-84 chairman of the fifteen state Southern Legislative Conference, I am submitting to you today a resolution recently adopted at our 37th annual meeting held in July, 1983.

The resolution which has been adopted by both the Southern Legislative Conference and the Southern Governors' Association calls upon Congress to reexamine the impact passenger bus deregulation is having on local communities and the states.

During the 1983 SLC annual meeting, my Transportation Committee met to discuss the Bus Regulatory Reform Act. We heard from Frank Crabtree, Director, Motor Carrier Division, Public Service Commission, West Virginia and Paul Gaither, Director of Transporation, Mississippi Public Service Commission. In addition, state representatives and senators from Arkansas, Kentucky, and Tennessee commented on the growing concerns state and local communities in our region are facing with the increased filing frequency for passenger route abandonments. West Virginia, Oklahoma and Georgia have recently had cases before the ICC.

Problems states are currently experiencing with passenger bus deregulation stem from language contained in section 16(g)(1) of the Act which directs the Interstate Commerce Commission to "afford great weight" to the extent to which carrier revenues are less than the variable costs of providing the transportation. This resolution calls attention to the fact that this specific language in practice directs the ICC to favor a carrier's financial considerations at the expense of public interest criteria.

It is my understanding that the House designed this portion of the Act as an either/or test with the two variables being proof of public interests being adversely effected or that continuance of the service would not unreasonably burden interstate commerce. In practice, the ICC has been weighing the financial side of the equation against the public interests component. I do not believe this is how congress intended the Act to function.

The Southern Legislative Conference of the Council of State Governments is composed of the presiding officers, other key legislators, and their staff aids of the State Senates and State Houses of Representatives in the 15 Southern States: Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia, and West Virginia, plus the Island Commonwealth of Puerto Rico.

The Conference was established in 1947 to enable the lawmakers of these states who share many common interests to exchange ideas, discuss problems, and develop solutions. Through the Conference, many ideas have been developed for improving ways of handling such matters as tax systems, roads and highways, educational programs, strengthening the agricultural industrial economy, conserving natural resources, assisting cities and local communities, controlling crime, and others, all of which are major state responsibilities.

Thank you for this consideration,

Sincerely,

Senator **Frank Komenda,**
Maryland Chairman, Transportation Committee,
Southern Legislative Conference.

(Approved by the Southern Governors' Association, Austin, Texas, September 28, 1983, submitted by Governor Bob Graham of Florida (referred by the Southern Legislative Conference).)

11. BUS DEREGULATION

The Bus Regulatory Reform Act of 1982, P.L. 97-261, enacted by the 97th Congress, has led to mass abandonments of passenger and service routes to rural communities throughout the Southern region.

Bus route abandonments have adversely affected transportation services to the handicapped, elderly and economically disadvantaged persons, as well as, service to industrial and small business interests.

Congressional conference committee language directing the Interstate Commerce Commission to "afford great weight" to carrier economic factors excludes balanced consideration to many communities where bus service is the last transportation service provider.

As a result of this conference committee action, federal guidelines under 49 USC 10935, Sec. 16 (g)(1), mandate that "great weight" be given to the revenues generated by said route compared to the variable costs to the company.

If a state renders an adverse finding concerning the abandonment of a route, the burden is on the state to make its case *within twenty days* after the appeal is filed with the Interstate Commerce Commission.

The time frame granted for appeal preparation to the aggrieved parties is not sufficient to prepare an adequate case against abandonment of specific routes.

In many cases the bus company may file route abandonments all over the state making it difficult to isolate individual concerns with specific routes.

It is recommended by the Southern Governors' Association that:

1. Congress amend P.L. 97-261, the Bus Regulatory Reform Act of 1982, to re-examine the criteria which currently guide the Interstate Commerce Commission to include those community, economic and human needs of the service areas;
2. Congress further amend P.L. 97-261 to include language lengthening the time frame states have been accorded to respond to carrier applications for discontinuance of service;
3. Members of the Southern Governors' Association be invited to testify during U.S. Congressional oversight hearings mandated by the Act; and
4. Copies of this resolution be distributed to Senate and House Transportation Committee Chairmen in the SGA region.

BUS DEREGULATION

Whereas, the Bus Regulatory Reform Act of 1982, P.L. 97-261, enacted by the 97th Congress, has led to mass abandonments of passenger and service routes to rural communities in Tennessee, Mississippi, Arkansas, Kentucky and West Virginia and threatened abandonments throughout the Southern Region; and

Whereas, bus route abandonments have adversely affected transportation services to the handicapped, elderly and economically disadvantaged persons, as well as service to industrial and small business interests; and

Whereas, congressional conference committee language directing the Interstate Commerce Commission to "afford great weight" to carrier economic factors excludes balanced consideration to many communities where bus service is the last transportation service provider; and

Whereas, as a result of this conference committee action, federal guidelines under 49 USC 10935, Sec. 16(g)(1), mandate that "great weight" be given to the revenues generated by said route compared to the variable costs to the company; and

Whereas, if a state renders an adverse finding concerning the abandonment of a route, the burden is on the state to make its case within twenty days after the appeal is filed with the Interstate Commerce Commission; and

Whereas, the time frame granted for appeal preparation to the aggrieved parties is not sufficient to prepare an adequate case against abandonment of specific routes; and

Whereas, in many cases the bus company may file route abandonments all over the state making it difficult to isolate individual concerns with specific routes; and

Now, therefore, be it resolved by the Southern Legislative Conference meeting in Savannah, Georgia, July 17-21, 1982, that:

1. Congress amend P.L. 97-261, the Bus Regulatory Reform Act of 1982, to re-examine the criteria which currently guide the Interstate Commerce Commission to include those community, economic and human needs of the service areas;
2. Congress further amend P.L. 97-261 to include language lengthening the time frame states have been accorded to respond to carrier applications for discontinuance of service;
3. Members of the Southern Legislative Conference be invited to testify during U.S. Congressional oversight hearings mandated by the Act;
4. Copies of this resolution be distributed to Senate and House Transportation Committee Chairman in the SLC region.

Adopted by the Southern Legislative Conference July 20, 1983.

PREDICTABLE EFFECTS

The man and his son stood fretfully in the small Mississippi Delta town one overcast day early this spring. They looked vainly down the highway for the bus that would take the boy back to Jackson, Miss. They waited for nearly an hour for the bus that had always arrived.

"Where's the bus, daddy?"

"I don't know, son."

They grew worried, concerned. They crossed the road to a service station, where a man holding a dead possum matter-of-factly told them the awful truth. "The bus don't stop here no more."

Time was, the bus stopped in thousands of small towns and hamlets throughout the United States. Intercity bus travel was small-town America's link with the larger world.

The bus took enlistees to boot camp. Old people to the big-city doctor. Young people to jobs away from home. Manufactured goods to customers.

Today, the bus goes nowhere for many people in rural America.

The reason is simple: The bus companies can't make money on lightly traveled, out-of-the-way routes. With bus deregulation in place, the big companies are abandoning routes they once were forced to serve if they also wanted the highly profitable routes between big cities.

Regulated bus travel involved an intricate trade-off that had little to do with the functioning of a free market. With deregulation, the cold economics of travel have taken over. Many small towns are hurting. They are feeling more isolated than ever.

"What's happening in Mississippi is happening in Arkansas, Tennessee and everywhere else," said Mississippi state Sen. Robert Crook, who also is chairman of the National Council of State Governments' transportation committee. "Deregulation is calculated to do away with transportaton service to sparsely populated areas," he told Marc Meltzer, a reporter for The Commercial Appeal.

Deregulation also is calculated to have small, independent bus companies step in when the big companies leave. It is now much easier for a bus operator to enter a market. All he needs is a bus, a safety certificate and insurance. And, of course, customers.

If a need exists, entrepreneurs will fill it. So the theory goes. Towns that no longer have bus service will not be without it very long if a need exists. So the theory goes.

Theory often pales beside reality. The theory may not work in practice. In the meantime, many small towns are left without their link to the rest of the country. They have no leverage. They can apply no pressure.

The large bus companies see their opportunities, and they're going to take them. Their response is predictable and in keeping with their view of how to put theory into practice.

"Obviously, if the schedule has not been hauling an adequate amount of traffic, then service is being reduced," said one Greyhound official. "You don't cut off the business if you've got people riding. These are service adjustments in line with the amount of traffic being handled on that route."

Pretty cold stuff, that. But even with the loss of service, deregulation is worth a try—but also a continued close look by Congress.

Deregulation offers opportunities for faster, more efficient and cheaper service between major cities. It also opens the way for small feeder services in small towns. If the latter opportunity is not taken, public officials will need to define exactly what bus service actually is and what it is intended to do.

If bus travel is akin to a public service—as it was during its regulated days—then a return to regulation may be warranted. If it is solely an economic activity devoid of social intent, then deregulation and its painful consequences for many small towns is the correct way to go.

Deregulation is still too new to pass final judgment. Clearly the bus companies are undergoing a shakedown period. The market is being allowed to work its way. Deregulation should be tried at least long enough to determine if its benefits outweigh its very real costs.

STATE OF NEW YORK,
METROPOLITAN TRANSPORTATION AUTHORITY,
New York, N.Y., November 15, 1983.

Hon. JOHN C. DANFORTH,
Chairman, Subcommittee on Surface Transportation,
U.S. Senate, Washington, D.C.

DEAR SENATOR DANFORTH: This letter is in reference to your oversight hearings on the Bus Regulatory Reform Act of 1982 (P.L. 97-2761).

The Metropolitan Transportation Authority is the public transportation agency of the State of New York which includes the New York City Transit Authority, the Metro-North Commuter Railroad Company, the Metropolitan Suburban Bus Authority, and the Long Island Rail Road Company. All of these operations are subsidized by the Federal, State, and local governments.

The MTA recommends that certain changes be made in the Act to better carry out its intent as expressed both in the national transportation policy set out at section five of the Act, and in the specific provisions relating to certification, and that abuses of the law now occurring be curbed.

Our railroad, bus, and rapid transit operations are adversely affected by the Act as it now stands, contrary to the Act's expressed policy of preserving several modes of transportation, encouraging reasonable rates for transportation, encouraging sound economic conditions among carriers, discouraging destructive competition, and cooperating with state and local governments. The problem derives from the ease with which interstate carriers may be certified for intrastate service. Prior to the passage of the Act, an interstate carrier could not pick up and discharge passengers within New York State without State approval. State law affords protection to public transportation by taking into account the impact of a proposed bus service on a public transportation service, and the adequacy of the public service. (Ch. 635, N.Y. State Laws of 1983.)

Section six of the Act attempts to take into account direct competition and significant adverse impact, but the category protected, "commuter bus operations" is underinclusive, excluding both our commuter rail operations, and our bus and subway services, which, although their service areas are as large as commutation areas elsewhere, do not employ reduced-fare, multiple-ride, or commutation tickets. The Act should be amended to give the same protection to commuter rail, and bus and transit services which people use to commute to and from work as is presently provided for commuter buses as defined in the Act. There is no public policy reason to distinguish between the presently protected category and other commuter services which are being adversely affected by destructive "skimming."

The subcommittee should take note of the widespread abuse of the Act by motor carriers which in fact operate in New York only, but which establish minimal ties to Connecticut or New Jersey in order to benefit from the relaxed standards of the ICC under the Act. One such carrier derives its "interstate" character from the fact that it traverses—in the "closed door" mode—a small section of Interstate 684 which happens to pass through Connecticut. Another starts its service just across the Connecticut line in a parking lot and comes into New York before picking up or discharging passengers. Both of these carriers severely impact our Metro-North Commuter Railroad, which has taken over the chronically deficit-ridden ConRail (previously Penn Central) service north and east of New York City. The enormous federal investment in this rail service over the years certainly justifies a reasonable protection of it. The competing motor carriers obviously do not duplicate the complete service of the railroad, nor do their services permit the railroad to cut back its service. They simply "skim" the railroad ridership, causing unit costs to rise.

Another abuse of the same type is found in several motor carriers which originate in New Jersey, cross the Bayonne Bridge into Staten Island without passengers and compete directly with express buses operated by the New York City Transit Authority between Staten Island, Brooklyn and Manhattan, having a significant adverse impact.

Section six of the Act requires a showing that the transportation to be authorized is consistent with the public interest. The situations described above are clearly not in the public interest, nor could such a showing have been made.

The ICC should require an applicant for intrastate authority to give notice of its application by mail to all public bus, rapid transit, and commuter railroad operators with which it may be in competition if the application is granted. Requiring all public operators to follow the ICC Register to identify among all the applicants those whose service may compete is burdensome and does not result in actual notice.

The ICC should require that an applicant set forth the impact on public commuter bus, rail or transit operations if the application is granted. It is reasonable to expect a bus line which is seeking to enter a new market to plan for such entry, including marketing surveys to determine whether its service will generate additional ridership or merely divert ridership. The burden should be upon the applicant, in the first instance, to establish the impact.

The Interstate Commerce Commission should also expressly authorize and encourage the use of stipulations between an applicant and protestants. This is not expressly provided for in current regulations. We have been advised that the ICC generally does not incorporate such stipulations into its grants of authority. In one situation, we have entered into a stipulation which we believe balances our concerns and those of the applicant. It is our experience, under New York State regulatory practice, that such stipulations can reasonably balance all interests concerned including the public interest, and avoid unnecessary adjudications. We do not, however, have any assurance that the ICC will accept the stipulation. A regulation should provide for this procedure.

Sincerely,

DANIEL T. SCANNELL,
Acting Chairman.